

METROPOLITAN
MUNICIPAL GOVERNMENT
FOR
GREATER CAPE TOWN

by
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requirements of the Degree of Doctor
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And they that shall be of thee shall build
the old waste places : thou shalt raise up
the foundations of many generations; and
thou shalt be called, The repairer of the
breach, The restorer of paths to dwell in.

ISAIAH 58 : 12

PREFACE

The idea of this thesis was conceived as a result of experiences with the deprived areas of Greater Cape Town. It is difficult to have regard to the social, financial and economic problems of a great many of the inhabitants of this area without giving some thought to what should be done to improve conditions and to create a better and more secure life for all the people of the area.

Political and structural reform of local government may seem to some to be an incongruous starting point for the objective outlined above but yet, when the matter is considered, it will be realised that local government is a form of government which is closest to the people, and because it renders a range of services directly to people, it is in a good position to know and understand their needs. Likewise, the representative functions of councillors are important in conveying up to higher government levels, those needs which cannot be met locally.

It can be said that South Africa is at a cross-roads in regard to political and structural governmental reform. The riots of 1976 and 1980 point in a direction which will be unacceptable to the majority of South Africans, irrespective of colour. If reform is to come, then a strong, vigorous and truly representative local government system will do much to make that reform successful.

ACKNOWLEDGEMENTS

Although a thesis must be written by the candidate, he or she cannot succeed without the generous assistance, information and encouragement supplied by many people.

First of all, therefore, I would single out my supervisor, Professor Jan F. Beekman whose experienced guidance helped me over many an obstacle, and whose encouragement and patience made it possible for me to surmount many difficulties.

The information received was from many sources. Here I would like to express my sincere thanks to Mr. P. Carstens, Deputy Director of Local Government, Cape Provincial Administration, the Secretary, Engineer and Medical Officer of Health of the Divisional Council of the Cape, the Town Clerk of Durban and the Town Clerks of Bellville, Brackenfell, Cape Town, Fish Hoek, Goodwood, Kuils River, Milnerton, Parow, Pinelands and Simon's Town.

Thanks are also due to the many people, too numerous to mention, who in one way or another, encouraged and urged me to complete this study.

Finally, my thanks go to my wife for the onerous task of typing the text of this study.

D.L. CRAYTHORNE
CAPE TOWN, NOVEMBER, 1982.

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CHAPTER ONE

INTRODUCTION, HISTORICAL BACKGROUND AND SYSTEMS AND FUNCTIONS

INTRODUCTION

1. The purpose of this study is aimed primarily at establishing the nature and composition of local government in Greater Cape Town and to some extent its social and economic make-up. In the light of this investigation it is also a purpose of this study to attempt to establish the needs of the area, and, bearing in mind pending constitutional changes, to try to indicate whether the local government of the area is politically satisfying to all its inhabitants and also whether the way local government is organised and operates in the area is effective and rational in terms of the needs of the area, the resources available and the future of the area. Whatever system is considered to be the best for the area will be reflected, in Chapters Seven and Eight in the form of proposed constitutional and organisational models.

METHODOLOGY

2. In order to achieve the objectives of the study, it is necessary to look at factors in the past, the present as at the time of writing, and to attempt a forecast for the future. This in turn involves research into law; such written documents as may exist; a survey into the present position; and in respect of the future, a two-fold approach, namely, the drafting of an administrative model and the drafting of an ordinance as the basis of the constitutional model. The survey into the present position was in three parts, namely:-

2.1 a/....

- 2.1 a survey directed at the thirteen local authorities that make up what is considered to be Greater Cape Town, as defined in paragraph four infra; and
- 2.2 a survey directed at local non-governmental institutions. The response received to this survey was extremely disappointing, particularly where opinion was sought relating to the effectiveness of local government and how it could be improved. As a result little of real value was achieved;
- 2.3 the use of official reports and documents, as well as research documents or other relevant writing and publicly-expressed opinions.

3. In the research for this study, the principal sources consulted have been laws, both past and present, reports of committees or commissions of enquiry, official documents of various sorts, the views or comments of a variety of writers, the results of the surveys mentioned, publicly-expressed views which are relevant, and wherever justified, the views of the Supreme Court of South Africa. Should the President's Council submit a report on or concerning the future of local government before the printing of this thesis, those proposals will be commented on in an addendum.

DEFINITION OF GREATER CAPE TOWN

4. When a study of this nature is undertaken, there has to be some limit to the physical area involved and, in the case of Greater Cape Town, it is felt that the area within the boundaries of the following local authorities indicates that these areas, when viewed as a whole, comprise one unit geographically and economically:

- The City of Cape Town
- The City of Bellville
- The Municipality of Brackenfell
- The Municipality of Durbanville
- The Municipality of Fish Hoek
- The Municipality of Goodwood
- The Municipality of Kraaifontein
- The Municipality of Kuils River
- The Municipality of Milnerton
- The Municipality of Parow
- The Municipality of Pinelands
- The Municipality of Simon's Town
- The Divisional Council of the Cape.

5. The/....

5. The municipalities are shown on the map which is attached as Map One while the area of the Divisional Council of the Cape is attached as Map Two.

MAP ONE: The Municipalities comprising Greater Cape Town.

Legend

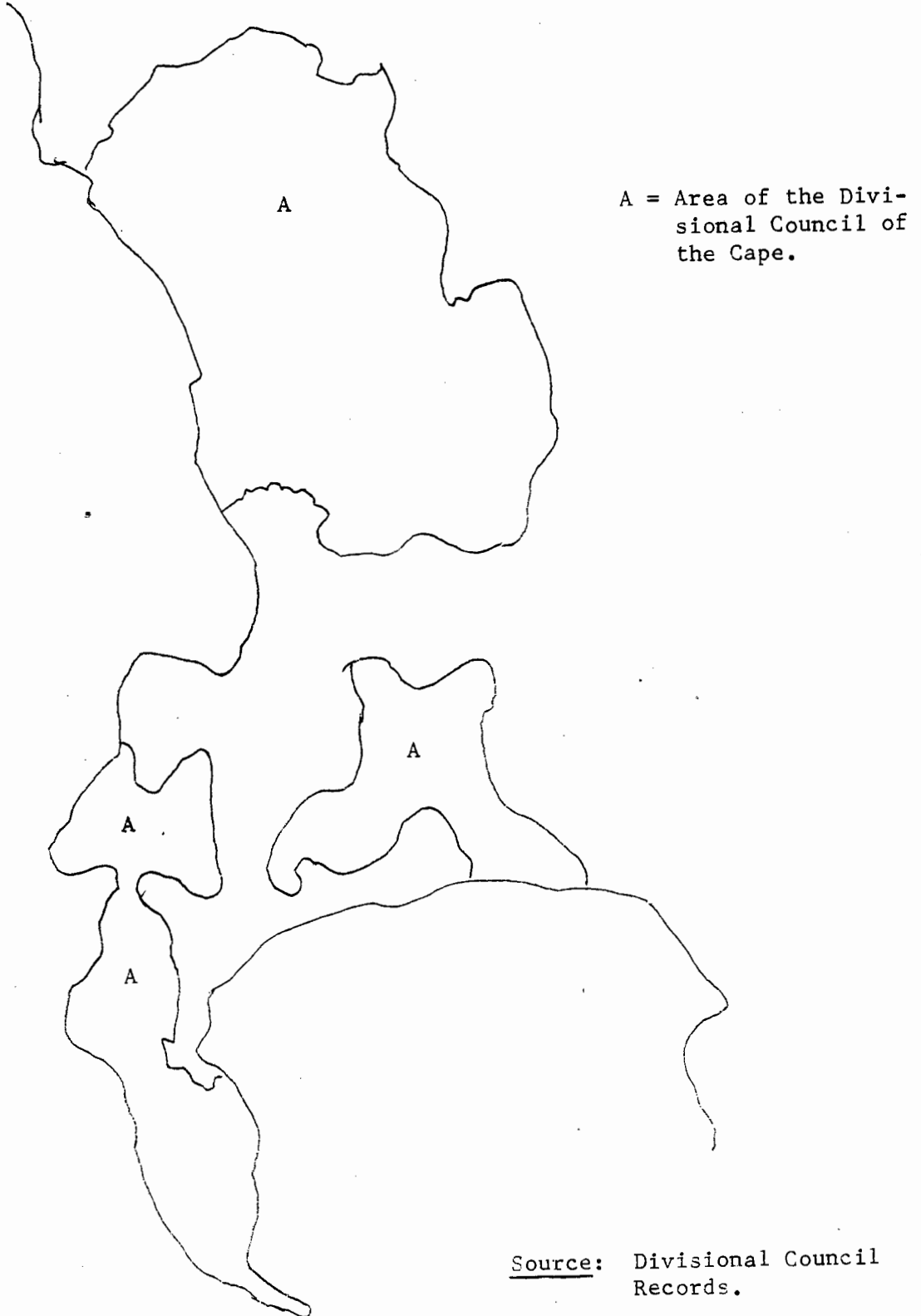
1. Cape Town
2. Bellville
3. Brackenfell
4. Fish Hoek
5. Goodwood
6. Kraaifontein
7. Kuils River
8. Milnerton
9. Parow
10. Pinelands
11. Simon's Town
12. Durbanville

Source: Cape Metropolitan Planning Committee.



The/.....

MAP TWO: The area of the Divisional Council of the Cape



The Municipalities of Brackenfell, Kraaifontein and Kuils River are in the area of jurisdiction of the Stellenbosch Divisional Council but an examination of Map One shows that these three municipalities are really part of Greater Cape Town, having no direct civic connection with the town of Stellenbosch. The northern part of the Divisional Council of the Cape containing the growth point known as Atlantis is at present remote from the existing developed area referred to as Greater Cape Town but if Atlantis were to be totally excised from Greater Cape Town then it would no longer have available to it the technical and administrative expertise so necessary for its orderly and rapid development; effectively Atlantis must be considered part of Greater Cape Town.

6. It is also recorded that in 1966 a report, referred to in this study as Slater Two, defined the Metropolitan Area as the municipal areas falling within the Division of the Cape. It was, however, stated in the report that this would not be a perfect solution as it excluded the Kuils River Municipality.¹ At that time there were ten local authorities in the Division of the Cape, namely:-

- The City of Cape Town
- The Municipality of Bellville
- The Municipality of Durbanville
- The Municipality of Fish Hoek
- The Municipality of Goodwood
- The Municipality of Milnerton
- The Municipality of Parow
- The Municipality of Pinelands
- The Municipality of Simon's Town
- The Divisional Council of the Cape.²

7. A Government report on the development strategy for the Western Cape describes the Cape Peninsula as consisting of the Magisterial Districts of the Cape, Wynberg, Simon's Town, Bellville, Goodwood and Kuils River: this area, with the Fringe Area of the Magisterial Districts of Wellington, Paarl, Stellenbosch, Somerset West and the Strand, comprises the area accepted by the Government as the Metropolitan Area.³ The Peninsula Area identified for economic development for the Western Cape is the same as the area described in paragraph four supra, but it must be noted that the Government's ultimate metropolitan economic and structural plans extend far beyond the Cape Peninsula. Accordingly, the recommendations made in this study should be reviewed periodically. It is also worth noting that

the/.....

the new British Metropolitan Counties, when they commenced, had estimated populations varying in size from 1 315 000 to 2 790 000.⁴

HISTORICAL BACKGROUND LEGISLATION

8. This section of the study is not a history of Greater Cape Town, but rather a tracing of the development of local government in this area from the time of the British occupation, since it is upon the British model that South African local government is largely based. Green states that after the Burgher Senate was dissolved on 26th December, 1827, the municipal government and administration of Cape Town was undertaken by the Colonial Administration for eleven years until the Municipal Ordinance, 9 of 1836, which took effect on 1st October, 1836, was applied to Cape Town in 1839. However, this was soon superseded by the Cape Town Municipal Board of 1840 which provided for the election of a board of twelve commissioners to govern the municipality, with power to pass by-laws, manage a fire service, operate a public waterworks, manage the Somerset Hospital, as well as to make, clean and repair streets, remove refuse, etc.--in other words, to provide normal municipal services. Furthermore, the board of commissioners had to draw up estimates of revenue and expenditure and appoint an auditor, and could levy rates.⁵ Initially, the system did not work well but as finances improved so did the services, although there were controversies, as in 1845, when a decision to cast offal on the beach instead of burying it created much public debate.⁶

9. From the provisions of the 1836 Ordinance and Ordinance 1 of 1840 which established the Cape Town Municipal Board it can be inferred that although the embryo of the present-day system was established, the needs of the time were perceived in terms of basic services such as roads, water or sanitation, for example, and that issues such as health, recreation or housing were not then considered to be the function of municipal government.

10. In chronological terms the next important legislation is Act 5 of 1855 for creating Divisional Councils in the Cape Colony. This Act stated in its preamble that it was intended for the better administration

of/....

of local affairs. The Act therefore amalgamated various functions and authorities concerned with divisional roads, district schools, pounds and the prevention of trespasses, under divisional councils. In terms of section two every divisional council was divided into six districts, to be proclaimed by the Governor, each district being represented by one person elected to be a member of the council. The electors were the persons on the Parliamentary voters' roll. The civil commissioner for each division was ex officio a member of each council, and his clerk was the secretary of the council. The civil commissioner, who was a judicial officer, is today known as a magistrate--see Ordinance 77 of 1830. There was a special provision for the Divisional Council of the Cape, namely, that the boards of commissioners and wardmasters for the Municipalities of Cape Town and Green Point, voting together as one constituency, were entitled to elect three persons who were in effect additional divisional councillors, with particular reference to the administration of roads--see section 23 of the Act.

11. The Divisional Council of the Cape was established by proclamation on the 5th September, 1855, with the following six districts which were subdivided into the Field-cornetcies indicated:

| <u>Districts</u> | <u>Field-cornetcies</u> |
|------------------|---|
| No. 1 | Papendorp Liesbeeks River Rondebosch Newlands |
| No. 2 | Wynberg Constantia Diep River Downs No. 1 |
| No. 3 | Elsjes Bay Klein Tuin |
| No. 4 | Simon's Town Wildschutsbrand |
| No. 5 | Rietvalley and Palen Xl Milestone - B. Duminy Downs No. 2 and Kuils River |
| No. 6 | Koeberg No. 1 Koeberg No. 2 D'Urban 7 Blueberg. |

The/....

The Field-cornetcies of Constantia and Bloubergstrand--referred to as Blueberg supra--are still local areas administered by the Divisional Council of the Cape.

12. The divisional council system evolved out of a need to provide and maintain roads in rural areas, to provide and control pounds, to deal with the extermination of weeds and vermin, the protection of public health and the abatement of public nuisances. The establishment of divisional councils amounted to the revival of the landdrost and heemraden system with which people in rural areas were familiar.⁸ The system of landdrost and heemraden arose out of the difficulty of administering local affairs in settlements distant from Cape Town. The office of landdrost was of Dutch pre-Napoleonic origin having been created in the Thirteenth Century as a form of lower court, but the landdrost also performed administrative duties in rural areas on an agency basis for higher authority. In South Africa the office of landdrost retained its judicial function under Dutch rule but evolved into a form of local government as well, in terms of which the landdrost was assisted by six heemraden or local citizens appointed by the Governor.⁹

13. By contrast, the Cape Town Municipal Board of 1840 provided for elected commissioners and a range of municipal services as set out in paragraph eight supra but the commissioner's powers to levy a rate were subject to amendments agreed upon by a majority of two-thirds of the wardmasters, that is, the commissioners and wardmasters met together for this purpose.¹⁰

14. The Cape Town Municipality Amendment Act, No. 1 of 1867, abolished the wardmasters and substituted 18 elected councillors for the 12 elected commissioners, and the office of chairman of the Council was changed to that of Mayor. At that time, Cape Town contained 4 338 ratable properties, a total population of some 25 000 persons, of whom some 15 500 were white, and a municipal valuation of £2 034 540.¹¹ It should also be mentioned that Green Point had its own Ordinance, 4 of 1839.¹²

15. Act 45 of 1882 repealed Ordinance 9 of 1836 and applied the following systems to municipalities coming within its operation, that is, all municipalities other than those governed by special legislation:

15.1/....

- 15.1 a municipality was constituted as a universitas and governed by an elected council with a mayor appointed from among the councillors;
- 15.2 the creation of municipalities by an administrative act of the Governor, that is, by proclamation;
- 15.3 formal procedures for compiling voters' rolls and the holding of elections;
- 15.4 the public election of auditors whose function was to audit the books of account;
- 15.5 the appointment of a Municipal Clerk and such other officers as might be necessary;
- 15.6 the power to make by-laws for certain prescribed purposes;
- 15.7 the valuing of immovable property and the levying of rates on both landlords or owners and occupiers of all immovable property so valued;
- 15.8 the raising of loans to pay for permanent works or to re-pay loans due;
- 15.9 general power to undertake the construction, alteration and maintenance of services such as roads, drains, sewers, water reticulation, municipal buildings, or to lease, purchase, erect and maintain schools, and to manage those schools;
- 15.10 the employment of law enforcement staff who could be armed;
- 15.11 the ownership and disposal of common lands.

16. Next came the Cape Town Municipality Act, 26 of 1893, which was special legislation for the Municipality of Cape Town. This act constituted the Town Council as a juristic person with perpetual succession, whereas today it is the municipality, that is, all the inhabitants and the proclaimed area which constitute the juristic person.¹³ The Municipality was assigned 18 councillors who were elected, three to a district, from the six districts into which Cape Town was divided, on a rotational basis. In other words, an election was held every year.¹⁴ In essence the 1893 Act followed the 1882 Act except that a Deputy Mayor was also to be appointed; the office of Town Clerk replaced the Municipal Clerk and the office of Treasurer was introduced; the vesting of the ownership

of public property was more effectively drafted; and the powers to provide and maintain services were extended. These extended powers provided for the Cape Town Municipality to be the water authority for Cape Town, Green Point and Sea Point, and for the 1882 powers to be expanded, e.g., to provide that the Council had to provide sewage farms, street lighting, markets or public bath houses. Not all these powers were directory, some, such as bath houses or markets, were permissive. The Council was also given the power to register births and deaths. Another innovation was the power given to the Council, if it wished, to institute a fire brigade. The power to make by-laws was extended from the 18 powers permitted in the 1882 Act, to 42 powers.¹⁵

17. After Union in 1910, the power to legislate on municipal matters was conferred on the Provincial Council of the Cape in terms of the South Africa Act of 1909. This Act provided, in section 85, that a provincial council might make ordinances inter alia in relation to:

(vi)(a) Municipal institutions, divisional councils and other local institutions of a similar nature;¹⁶

In 1912 the Cape Provincial Council repealed the Acts of 1882 and 1893 along with other old legislation and enacted the Cape Municipal Ordinance, 10 of 1912. The preamble states that the purpose of the Ordinance was to consolidate and amend the law relating to municipalities. This Ordinance constituted the inhabitants of every municipality, under its name, as a body corporate with perpetual succession.¹⁷ It is a voluminous piece of legislation with 330 sections but from the systems point of view, the following are of interest:

17.1 occasional and standing committees could be appointed, or in other words, the multiple committee system was permitted; and

17.2 the beginning of the formal recognition of specialisation occurred in that each council had to appoint a Town Clerk and a Treasurer, and could also be compelled to appoint a Medical Officer of Health.¹⁸

18. Ordinance 10 of 1912 was repealed by Ordinance 19 of 1951, which in turn was repealed by the current Ordinance, 20 of 1974. Although many changes of terminology and to some extent, method, occurred along the road followed by these Ordinances, in principle Ordinance 20 of 1974 still

reflects/.....

reflects the systems and the ideas behind them, which evolved in the Nineteenth Century. In Chapter Seven of this thesis, an attempt will be made to draft a special Ordinance for the metropolitan area of Greater Cape Town which, in several instances, will depart radically from the traditional model.

19. Returning to divisional councils, it is mentioned that the Cape Provincial Council in 1917 repealed previous legislation and enacted the Divisional Councils and Roads Ordinance, 13 of 1917. This Ordinance is also voluminous, consisting of 351 sections, and the most relevant of these provisions can be summarised as follows:

- 19.1 The councils of each division were constituted as juristic persons and each division was provided with an elected council. As divisions were established by proclamation, it can be inferred that a system of indirect local government was intended, albeit for a rural area, and for limited purposes.¹⁹
- 19.2 Provision was made for voters' rolls, elections and election procedures, the qualifications and disqualifications of councillors and for the appointment of a chairman for each council. In those days the civil commissioner or magistrate was ex officio a councillor and chairman of his council, except in the Divisional Council of the Cape where an elected Councillor was appointed.²⁰
- 19.3 Each council had to appoint a Secretary, a Treasurer, inspectors of roads and bridges, a Health Officer and sanitary inspectors. Each council could also appoint such other officers as might be necessary.²¹
- 19.4 A divisional council could appoint standing or occasional committees, and delegate powers to them.²²
- 19.5 Power was given to levy rates on property within municipalities in the division, and on properties outside municipalities but within the area of the division. Permissive powers were also conferred to levy a tax on each wheel of a vehicle to a maximum amount of seven shillings and sixpence, that is, seventy-five cents, per annum. Although the Ordinance was not clear on this point, the wheel tax was presumably intended for the maintenance of roads. A road subsidy was also payable to all divisional councils in respect of

capital/.....

capital works and maintenance. This subsidy was paid out of Provincial funds but in addition, divisional councils were given a share of the Provincial motor tax, pro rata to the subsidy paid in respect of roads.²³

- 19.6 Divisional councils were given power to borrow money on loan, and to enter into contracts for purposes authorised by the Ordinance, provided tenders were first invited.²⁴
- 19.7 The powers or functions of divisional councils were that they were to be the road authorities for their areas, and this was their main function in 1917. In addition, they could also establish public ferries, public outspans and trekpaths; deal with the destruction of noxious weeds, licence the keeping of dogs, provide for public health measures and deal with nuisances, provide street lighting and public dams, and finally, could recommend the establishment of local areas. These local areas were in effect sub-municipal units in a transitional stage between a purely rural area and a viable local authority. For example, a special committee could be appointed for each local area, and each such area was meant to be financially self supporting.²⁵

20. Ordinance 13 of 1917 was superseded by Ordinance 15 of 1952, which in turn was superseded by Ordinance 18 of 1976. This latter Ordinance places divisional councils on virtually the same footing as municipalities except for differences stemming from the divisional council system itself, e.g., local areas, which are preserved.²⁶ It is not intended to analyse the current legislation on municipal and divisional councils because relevant comment will be offered in Chapter Seven which will deal with the proposed Ordinance for the Cape Metropolitan area. However, the Municipal Ordinance, 20 of 1974, differs from the Divisional Councils Ordinance, 18 of 1976, in the following important or relevant respects:

- 20.1 A divisional rural area can be proclaimed as a local area under section 8(1)(h) of Ordinance 18 of 1976, while there is no comparable provision in the Municipal Ordinance, 20 of 1974;
- 20.2 a municipal council must in terms of section 73 of Ordinance 20 of 1976, keep books of account for the municipal area, whereas a divisional council must not only keep books of account for its divisional area but also separate accounts for each local area;

20.3 when a municipal council makes by-laws and these are approved and promulgated, the by-laws have the force of law throughout the municipal area--see sections 188 and 190(5) of Ordinance 20 of 1974. However, divisional council by-laws apply to the rural area, that is, that part of the division which is outside the municipal areas but some provisions applicable to rural areas may not be applied to local areas--see section 190 read with section 191 of Ordinance 18 of 1976.

21. Before concluding the references to historical and current legislation, it is necessary to refer to an important Ordinance, namely, the City of Cape Town Unification Ordinance, 19 of 1913. The preamble to this Ordinance states that its purpose is:-

To provide for the combination and better government of certain Municipalities in the Cape Peninsula.

22. This Ordinance combined into the City of Cape Town the Municipalities of Cape Town, Green Point and Sea Point, Woodstock, Mowbray, Rondebosch, Claremont, Maitland and Kalk Bay, and the combination took effect on the 8th September, 1913. Wynberg was excluded but was later incorporated by Ordinance 14 of 1927. As a consequence, the new City of Cape Town was divided into 14 wards, with each ward returning three Councillors, that is, there was a total of 42 councillors but initially, for the first election only 31 councillors were elected.²⁷ The offices of Mayor and Town Clerk were continued and, as Ordinance 10 of 1912 applied except in so far as it was repealed by Ordinance 19 of 1913, so did the multiple committee system permitted by the former Ordinance.²⁸ For a period of not more than 20 years from 1913, a differential rating system was to be followed in that the expenditure on sewerage and stormwater drainage was to be recovered by way of rates exclusively for the following areas, that is, the rate contribution from these areas was to be spent exclusively in the areas concerned:

22.1 Sea Point and Green Point;

22.2 Cape Town and Kalk Bay;

22.3 Woodstock, Maitland, Mowbray, Rondebosch and Claremont²⁹--and while this system continued every owner of immovable property was entitled to a vote at municipal elections for each ward in which he owned property.³⁰

23. When eight municipalities combine there may be redundant staff, particularly at the senior level and Ordinance 19 of 1913 provided that:-

- 23.1 every employee of all of the eight combining councils would be deemed to be an employee of the combined Council but the combined Council had the power to dispense with the services of any employee or to alter the terms and conditions of his employment, subject to his right to compensation; and
- 23.2 if the employee had had at least three years' continuous service and suffered loss by the abolition of his post or by non-acceptance of office in circumstances which involve loss of status, he was entitled to a pension or gratuity on the same basis as a civil servant who had been prematurely retired. If his loss was caused by a drop in salary the employee who remained in the service of the combined Council was given an extra payment equal to two-thirds of the difference between his former higher and subsequent reduced salary, on condition that this allowance was reduced as he obtained annual increments.³¹

24. To conclude this section, it is mentioned that apart from the City of Cape Town, the other municipalities in the defined area of Greater Cape Town received municipal status at the times indicated below:

| <u>Municipality</u> | <u>Time or Year of achieving Municipal Status.</u> |
|---------------------|---|
| Bellville | 1940, with city status being granted as from 7th September, 1979. ³² |
| *Brackenfell | 1st January, 1968. ³³ |
| Durbanville | 1901. ³⁴ |
| Fish Hoek | 1940. ³⁵ |
| Goodwood | 1938. ³⁶ |
| *Kraaifontein | 1958. ³⁷ |
| *Kuilsvier | 1950. ³⁸ |
| Milnerton | 1955. ³⁹ |
| Parow | 1939. ⁴⁰ |
| Pinelands | 1948. ⁴¹ |
| Simon's Town | 1883. ⁴² |

* These towns fall within the area of jurisdiction of the Stellenbosch Divisional Council but, it is submitted, the impetus and means for their development largely came from the Greater Cape Town area, of which they logically are a part.

THE GOVERNMENT OF SOUTH AFRICA

25. Although this study is confined to a relatively small part of the Republic of South Africa, there is little point in discussing local government in isolation from the higher tiers of government particularly, as will be shown later, when political changes are being discussed. It will also become clear in this and other parts of this study that changes in local government do not come about as a result of a voluntary effort on the part of local government but rather by way of compulsion from a higher level of government. A possible reason may be that, in South Africa at least, local government is conservative and often resistant to change so that when change comes, it emanates from forces outside local government itself. Figure One shows the present government systems of the Republic.

National Government

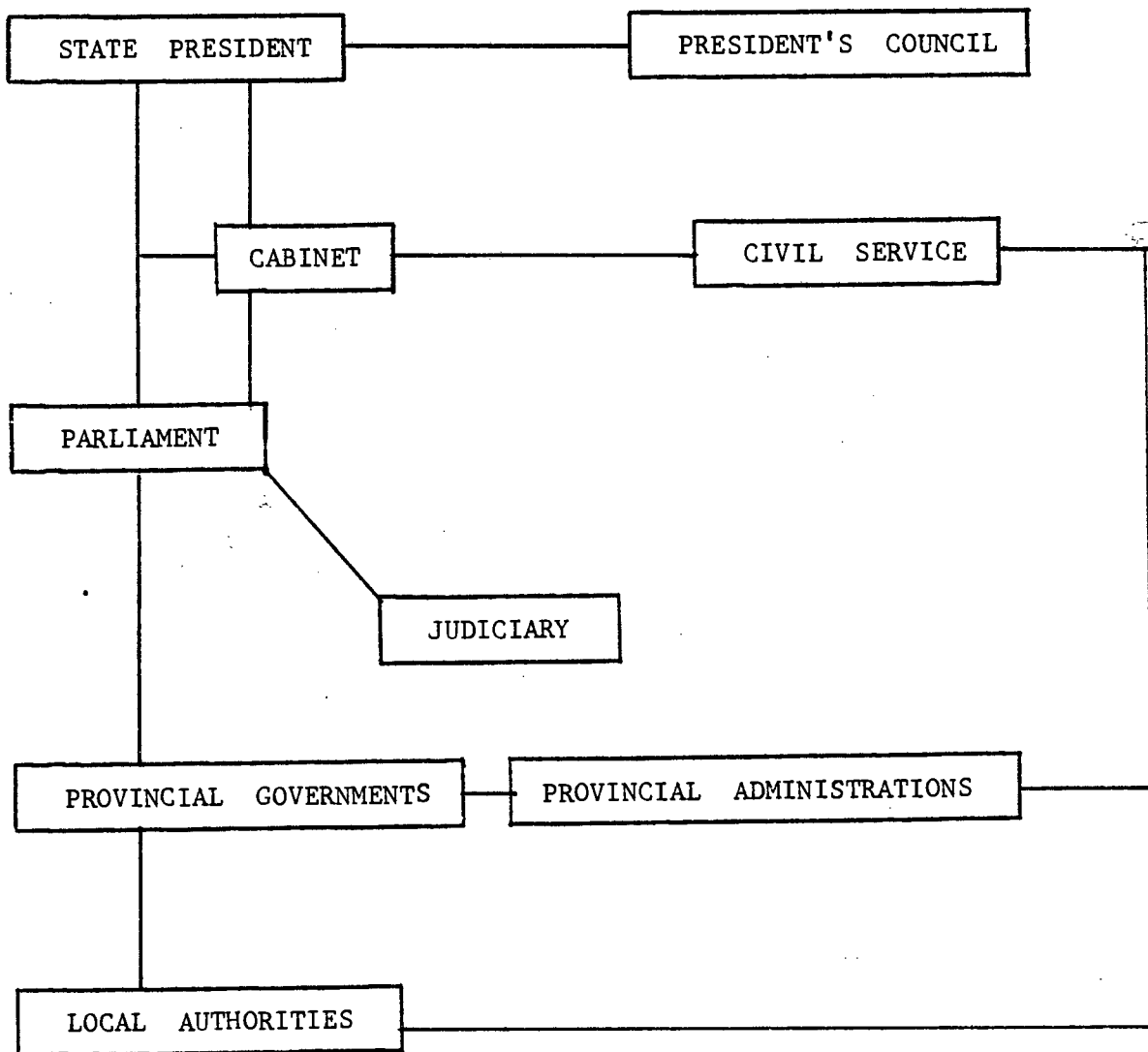
26. The term government is often loosely used to refer to the majority party in Parliament but in fact the government and administration of South Africa consists of a number of inter-related elements:

- 26.1 The State President, who is the head of the Republic and the commander-in-chief of the South African Defence Force;⁴³
- 26.2 the Parliament of the Republic, which consists of the State President and the House of Assembly, the Senate having been abolished. The legislative power in the Republic is vested in Parliament which is the sovereign legislative authority over and in the Republic with full power to make laws for the peace, order and good government of the Republic. The House of Assembly, which formerly consisted of 175 members, now consists of 165 elected members, four members nominated by the State President, and eight chosen by the 165 elected members by means of proportional representation;⁴⁴
- 26.3 the executive government of the Republic is vested in the State President acting on the advice of the Executive Council, which consists of those Ministers appointed by the State President, now not more than 20 in number, but formerly 18. The Ministers of State must be members of the House of Assembly. Deputy Ministers not

exceeding/....

FIGURE ONE:

THE GOVERNMENT SYSTEMS OF THE
REPUBLIC



exceeding six in number may also be appointed. From the fact that persons may be appointed to the House of Assembly by the State President, or elected proportionally by the 165 elected members, it follows that a member of the House of Assembly who is appointed as a Minister may not have been elected by the electorate.⁴⁵ The Executive Council is in reality the Cabinet which is controlled by the Prime Minister, and whose functions are not defined by statute; in practice the leader of the majority party selects his Ministers and the system operates under unwritten conventions which give the Prime Minister considerable power;⁴⁶

26.4 the judicial authority in the Republic is vested in the Supreme Court of South Africa, consisting of the Appellate Division and such provincial and local divisions as may be established.⁴⁷

27. The President's Council established by Act 101 of 1980 is not a part of the government of the Republic but fulfils an advisory function. On 3rd April, 1979, a Bill was published of a proposed new constitution and interested persons were requested to submit comments. The Bill departed from the constitution as laid down in Act 32 of 1961, in the following main respects:

- 27.1 there would be an Assembly elected by the white electorate, which would be vested with the legislative power in the Republic, together with a House of Representatives consisting of coloured persons and a Chamber of Deputies consisting of indian persons;
- 27.2 there would also be a President's Council consisting of members of the Assembly, House of Representatives and Chamber of Deputies, established for the purpose of advising the Council of Cabinets;
- 27.3 the Council of Cabinets would consist of the white, coloured and indian Prime Ministers and six white, three coloured and two indian Ministers, with the State President as Chairman. The State President would retain his executive powers but would appoint the white coloured and indian Prime Ministers and Cabinet Ministers to administer Departments of State. Every executive act by the State President would have had to be countersigned by a member of the Council of Cabinets;

27.4 although legislative power would vest in the Assembly, some provision was made to transfer legislative functions to the House of Representatives and the Chamber of Deputies.

28. On 4 July, 1979, a Commission of Inquiry on the Constitution was appointed

To inquire into and report on the introduction of a new Constitution for the Republic of South Africa.

This Commission issued an interim report dated 6 May, 1980, the view of the majority being that while a considerable amount of investigation still had to be done it was felt that the pure Westminster system of government with a one-man-one-vote system would lead to inter-racial conflict. The Commission stated that more time was needed to study possible changes in the electoral system but for the short term it recommended the abolition of the Senate, the creation of the office of Vice State President, and the creation of a President's Council to advise the State President on any matter, particularly matters which in the view of the Council would be of public interest. To this end various consultative committees should be established. The objections of the members of the Commission who were also members of the New Republic and Progressive Federal Parties related mainly to the exclusion of black persons from the proposed President's Council.

29. The President's Council and the office of Vice State President were established by Act 101 of 1980. In essence, the Vice State President serves as the chairman of the President's Council, except when he serves as Acting State President.⁵⁰ The President's Council, apart from its chairman, consists of 60 members appointed by the State President for a period of five years from members of the white, coloured and indian population groups. The functions of the President's Council are to advise the State President wherever so requested by him, but when in its opinion any matter is one of public interest, it may advise the State President, and furthermore, it may advise any legislative body, except a local institution, on any legislation that that body may refer to it. The President's Council is divided into a number of committees, namely, a Constitutional Committee, a Committee for Economic Affairs, a Planning Committee, and a Committee for Community Relations; other standing committees may be appointed if considered necessary.⁵¹

30. At this point it can be seen that the system of national government is in the process of changing but that the changes have not yet got as far as deciding the fate of provincial governments or the future shape of municipal government, although, in the latter case it will be possible to show in Chapter Seven vague gropings towards new forms.

Provincial Government

31. The provincial system in South Africa came into existence as a result of the welding of the four former British colonies into the Union of South Africa. South Africa is a unitary state, and the roots of the provincial system lie in the negotiations which led up to the formation of the Union of South Africa; the system is in fact alien to the British parliamentary system.⁵² The principal characteristics of provincial government are as follows:

- 31.1 there is an Administrator who is appointed by the State President for a period of five years. He is the chief executive of the province in whose name all executive acts relating to provincial affairs are done. He is also the chairman of the executive committee, infra, and in respect of those cases where no powers are reserved or delegated to the provincial council, the Administrator acts alone on behalf of the State President;⁵³
- 31.2 each province has a provincial council, elected by the white voters for a period of five years. Each provincial council has a seat assigned to it, the one for the Cape being at Cape Town. The provincial council exercises a legislative function, the statutes it passes being known as ordinances. An ordinance must be assented to by the State President, and if this happens, it has legal force in that province unless the ordinance is repugnant to an Act of Parliament. Among the legislative powers conferred on provincial councils is the power to make ordinances on

municipal institutions, divisional councils and other
local institutions of a similar nature;⁵⁴

- 31.3 each provincial council must elect four of its members, who with the Administrator, constitute the executive committee for the province. The function of the executive committee is to carry on the administration of provincial affairs. As far as personnel is concerned, the State President may assign officers to the provinces, and

executive committees in addition have the power to appoint officers.⁵⁵ It is these officers who are often loosely referred to as the provincial administration--in fact the provincial administration consists of the Administrator, the executive committee and the personnel.

Local Government

32. A particular characteristic of the South African constitutional position which emerges from paras 26 to 31 supra is that while the existence, functions and shape of the national and provincial governments are set out in the country's constitution, and are, as it were, guaranteed, local government exists at the will of provincial councils. In fact, section 84(1) of Act 32 of 1961 authorises a provincial council to make ordinances, inter alia, on municipal institutions, divisional councils and the like but does not compel it to do so. As section 78 of the same Act instructs provincial executive committees to carry on the administration of provincial affairs, it can be inferred that a provincial council could decide that its executive committee shall exercise local government functions. As a provincial council has control over and may legislate, inter alia, on the establishment and administration of townships, town planning, water supply and sewage disposal schemes and the provision of any service ordinarily provided by local authorities, including the power to levy rates on immovable property, there is nothing in theory to prevent such a course of action.⁵⁶ Fortunately this has not happened, and in the interests of a settled democratic society, it should not happen.

33. The most important types of local government on the municipal pattern found in the various provinces are the following:

33.1 municipalities, which are found in all four provinces. Each municipality is governed by a council elected by the white persons resident in the municipal area, principally on the basis of eligibility for the Parliamentary voters' roll but sometimes with an added residential qualification. In Natal the term borough is used as a synonym for municipality. Each municipality has legal personality, and has a wide range of powers conferred on it to render a variety of services, some of which are compulsory, and some of which are permissive;⁵⁷

- 33.2 divisional councils, which are only found in the Cape Province, the legislation in respect of which is virtually identical with that for municipalities;⁵⁸
- 33.3 village councils, which are found in the Transvaal and which are municipalities, in that they are bodies corporate with elected councillors, but not having all the powers of a municipality;⁵⁹
- 33.4 village management boards for proclaimed village areas as found in the Orange Free State. These boards and not the village areas, are given corporate existence and each board has to govern its area. The members of the board may either be appointed by the Administrator or elected-- the Administrator has the discretion to decide. A board has only limited municipal powers;⁶⁰
- 33.5 town boards in Natal, which are permitted for townships outside a borough. A town board has legal personality and its members may either be elected by the white inhabitants or be appointed by the Administrator, as he may decide. A town board has the power to render mainly those municipal services of a traditional nature, e.g. roads, drainage, water, etc.;⁶¹
- 33.6 health committees in Natal, which are incorporated as bodies corporate, with a membership which is elected or appointed as the Administrator may decide. A health committee's functions seem mainly to be limited to streets, waterworks, drainage, the control of nuisances and the control of buildings;⁶²
- 33.7 health committees in the Transvaal, which are bodies corporate, and which are governed by persons who are either elected or appointed by the Administrator, as he may decide. A Transvaal health committee has a wide range of powers relating to traditional services;⁶³
- 33.8 local boards, as found in the Orange Free State. Each local board consists of elected members, except the first board constituted after the establishment of a local area, in which event the Administrator appoints the members. Each board is a body corporate. All the powers and duties of a municipal council are conferred on a local board, with certain minor adjustments.⁶⁴

34. The short survey supra reveals that there are apparently a number of differing systems of local government of the municipal type as between the Provinces but in reality South African local government can be shown to have a variety of common characteristics, as follows:

- 34.1 local authorities exist for definite areas, and sometimes definite communities; depending naturally on the size of the area;
- 34.2 local authorities come into existence by an act of will of the provincial representative of the central government, namely, the Administrator, whose decisions are taken with his executive committee--see 31.1 and 31.3 supra;
- 34.3 except where established on the ground of racial separation--see Chapter Two in regard to management committees--local authorities have a corporate existence, defined powers aimed at rendering a range of services, and usually but not always, elected members;
- 34.4 local authorities can, in broad terms, be divided between those established for urban centres, such as towns or cities, and those established for rural areas, such as divisional councils, or for concentrations of persons not sufficiently large enough to justify full municipal status, but which nevertheless justify a form of representative local government.

35. The functions of government are next to be discussed, but almost mainly with reference to local government, including issues such as the nature of local government, its autonomy and its place in the life of people. To conclude this section on local government, Figures Two and Three set out the South African patterns of municipal government with and without multiple committees.

THE FUNCTIONS OF SOUTH AFRICAN GOVERNMENT

36. South Africa's constitution, as outlined above, shows that those parts of South Africa which come under the jurisdiction of the Parliament established by Act 32 of 1961, is a unitary and not a federal state. This view is re-inforced by Verloren von Themaat.⁶⁵ From the

fact/....

FIGURE TWO: MUNICIPAL GOVERNMENT WITH MULTIPLE
COMMITTEES

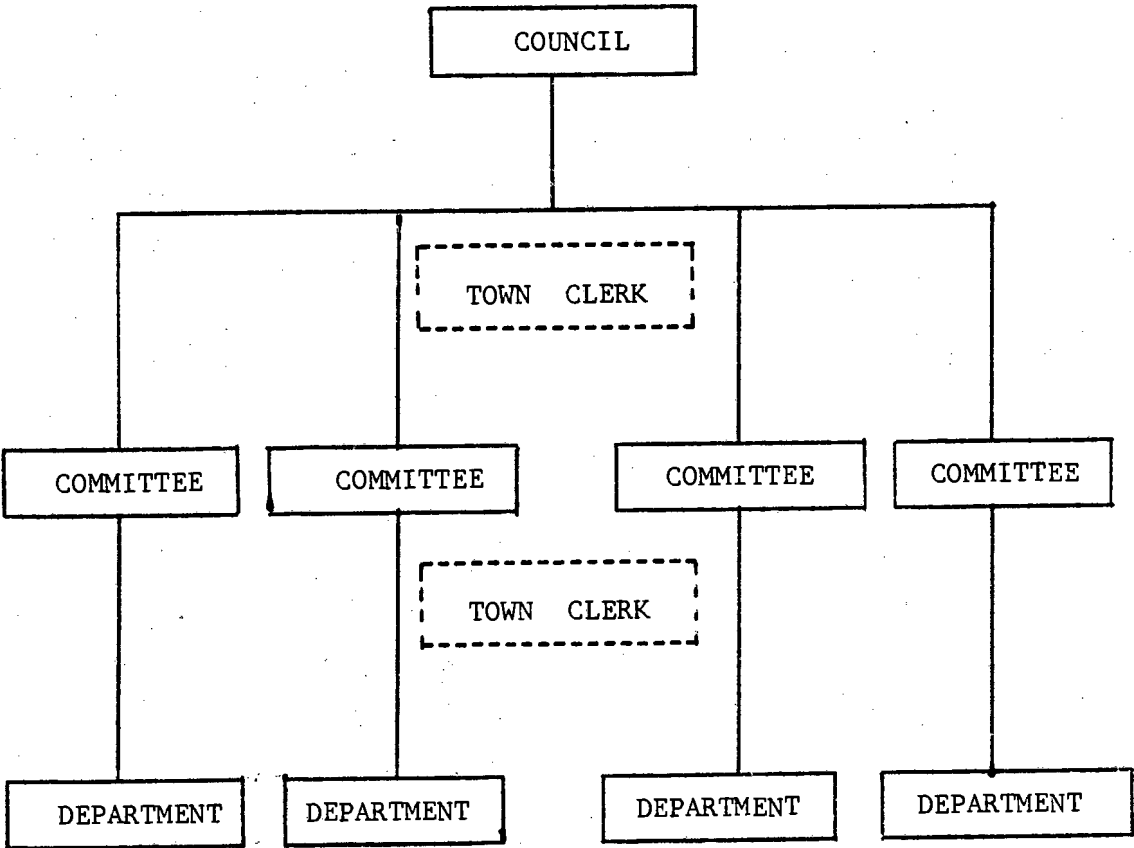
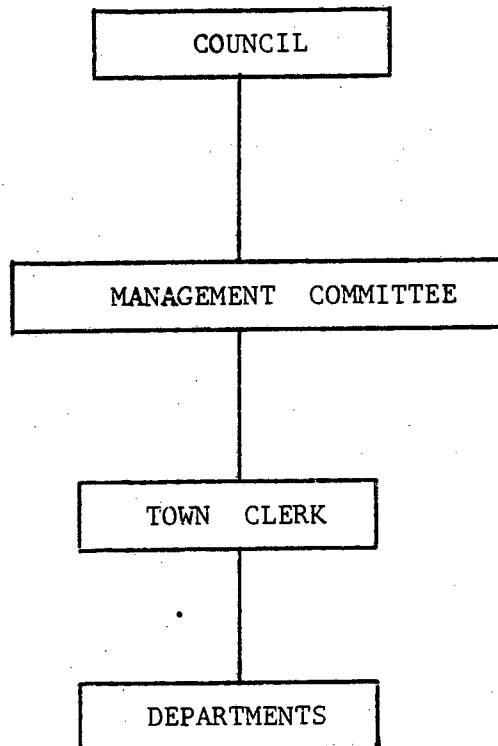


FIGURE THREE:MUNICIPAL GOVERNMENT WITHOUT MULTIPLE COMMITTEES

fact that Parliament may make laws for the peace, order and good government of the Republic, it is reasonable to infer that Parliament, and the executive portion of the government of the Republic, have the responsibility of ensuring that the affairs of the country, and the welfare of its inhabitants, are adequately and justly provided for. In practice, however, the central government tends to confine its activities to those matters which it considers to be of national interest, e.g., defence, police, justice, labour, communications, public health, etc. and to leave to the provinces those matters not specifically excluded from provincial jurisdiction. This is regrettable since local government, for one, is of vital importance to the peace and stability of the Republic. As will be seen at a later stage when planning is dealt with, there is an increasing tendency for the central government to concern itself with land use and strategic planning, to the extent that overlapping with provincial functions is occurring, and the final result may well be inroads on functions traditionally regarded as provincial with an inevitable effect also on local government. It is submitted that, as the political reforms projected--to be discussed later--assume greater importance, the functions of the provinces will increasingly be encroached upon by the central government.

37. The functions of government do not, it is also submitted, consist wholly of lists of specific functions, such as defence, labour or public health, but are also connected to wider issues related to responsiveness to societal needs and the need to review and change policies and systems. Thus the reference to peace, order and good government in the Constitution Act imposes constraints of a moral or ethical kind which transcend a search for mere efficiency.

38. Most provincial activities except roads, planning and public libraries, are of little direct impact on local authorities in the Cape but the Slater Two Report stated that the Provincial Administration had a significant role in relation to local government, in that the Provincial Administration was more than an auditor; it played a significant role in the leadership, stimulation, co-ordination, practical advice and guidance to local authorities which, coupled with generous subsidies, had led to a spirit of friendly partnership between Provincial Administration and

local/....

local authority.⁶⁷ This view can be related to Cloete's view, namely, that it is an express function of the provincial authorities to give leadership and aid to local authorities and organisational provision has been made for regulating relationships with local authorities by means of departments of local government. On the other hand, the politicians and officials at provincial level do not always have the insight and knowledge needed to give leadership to local authorities; in fact the majority of provincial officials do not possess the practical experience of local government and administration, and their administrations do not possess the resources to give aid.⁶⁸

39. The above is all that need be said about central and provincial government functions as this study is primarily concerned with municipal government. What follows is a selection of views on local government in general:

39.1 Councillors in the United Kingdom are sometimes elected but most are returned unopposed. In country areas, local government is virtually a self-perpetuating system of co-option, while in the urban areas political parties and other bodies tend to dominate the choice of candidates. Three points of criticism which could be levelled at British local councils are the lack of women councillors, the high age of councillors, and the fact that an unrepresentative council may be inherently undesirable if it does not include a cross-section of local opinion.⁶⁹

39.2 Management in local government is not abstract but related to the environment of the local authority, concerned not merely with output but also with needs met and problems solved. Local government is not just a collection of separate services, although each local authority has its various services: understanding problems should proceed as part of the wider environment in which those problems exist, a process which leads to exploring the full depth of those problems. In other words, there is an inter-relationship between problem areas and paradoxically, as problem areas become more obvious, they become more difficult to define. Once it is accepted that there is an inter-relationship between problems which relate to the environment of the local authority, doubt is thrown

on/....

on traditions of management based on the premise that local government should be regarded as a collection of separate services directed at separate problems. General management can overcome problems by preventing or modifying action proposed by one service which can hinder the work of the other services.⁷⁰

39.3 The idea of local democracy implies: elected councillors having effective control over decision-making; that councillors should be fully accountable to the electorate and responsive to public opinion; and a widespread knowledge of local government activities, with a reasonably high degree of popular participation in community affairs. In England, the first of these qualities has been achieved but apathy and lack of communication, coupled with a lack of competition to serve as a councillor, cast doubt on whether the second has been achieved. Nor can it be said that the Victorian ideal of the public being educated to participate in local affairs has been achieved. In part this is because of the secretiveness of councillors and the exclusion of the press from committee meetings, and in part due to the nature of the press itself, where local papers tend to concentrate on national and not local issues.⁷¹

39.4 In Britain administrative structure is a continuum which can be subdivided into sets of decision-making chains such as: organisational chains binding together the decisions of bodies which possess some degree of legal and political autonomy; or functional chains binding together decisions which are concerned with the performance of some general service or function. A local authority provides an organisational framework for linking together a number of functions which have limited relevance or relationship to each other.⁷²

39.5 The British Government lacks a philosophy of local government with the result that the changes necessary because of modern-day problems are delayed. The reason for this is that local government services were being provided tolerably well so that the pressure for change never became irresistible. Another reason was the reluctance of the two main political parties to alienate their supporters. Two fundamental dilemmas face local government. The first is how to have democratic control, with elected members able to decide all major issues, and yet have efficient management by the paid

professionals./.....

professionals. The other dilemma is how to divide the country into administrative units which will reflect socio-geographical units big enough to allow for sensible planning but yet small enough for the personal service provided by local authorities not to be remote, and to have a single system throughout the country.⁷³

- 39.6 As a society becomes more complex it requires a widening range of services, some of which are carried out by local government. In local government, the majority of functions are service-providing and only a minority are governmental.⁷⁴
- 39.7 Local government is the action of governing the affairs of a town, and it is local because it has direct contact with the needs and problems of people and can deal with them on the spot. To govern means to direct and control, or to regulate, the things that need to be done, and the things that need to be done are the aims of the local authority; these aims include service, accountability, and the provision of the means or organisation needed to carry out the first two aims.⁷⁵
- 39.8 Local authorities render services which can be termed protective, communal, personal and trading but local authorities are not merely executive agencies. On the contrary, they not only exist to carry out duties but also to express opinions, which is a representative function.⁷⁶

40. Paragraphs 26 - 33 have given a broad conspectus of the three levels of government in the Republic of South Africa. Central to the whole system is the responsibility of Parliament for peace, order and good government, from which it follows that, while local government may be local self-government it only has few true governing functions. Taking this factor with the views expressed in paragraphs 36 - 39, local government can be described as:-

- 40.1 a form of government of a community contained within a defined area by means of representatives elected, at present, by the white voters although there are a few racial exceptions such as Pacaltsdorp in the Cape which has a coloured council for a wholly coloured area;

- 40.2 local government, depending on the size, wealth or poverty, and complexity of each community, renders a range of services of a protective, personal, communal or trading nature, and it has therefore become common to describe local government as having the function of rendering services;
- 40.3 this is not altogether just because local government also has a representative function and the rendering of services should in any case be done as part of a pervasive concern for the true needs of all the inhabitants of the local authority, that is, the ethical concepts of justice and fairness are of considerable relevance;
- 40.4 the affairs of local authorities are jointly managed by elected representatives or councillors who are not paid a salary for their services, and appointed officials who are so paid. The problem with councillors as far as the electorate is concerned is the lack of real choice in respect of candidates which may be caused by party political domination or public apathy, and a lack of accountability. As far as officials are concerned, the problem with councillors hinges on the councillors concerning themselves with administrative detail instead of public policy;
- 40.5 local government needs to be as open as possible to counteract apathy and to give the public the maximum information possible about its activities;
- 40.6 the Central Government should concern itself more with the effectiveness, not necessarily efficiency, of local government. Effectiveness relates primarily to responsiveness to public needs while efficiency has a much narrower meaning. If local government is found to be ineffective due to its resistance to the need to change itself, it is the duty of the Central Government to remedy this;
- 40.7 in its management activities, local government must be careful to ensure that it does not deal with its services separately and in isolation from the local environment. In other words, local government management must be approached on the basis of so co-ordinating perceived needs that its services are distributed fairly and justly;

and/....

and finally

- 40.7 political credibility at local level undoubtedly rests on all members of the community being able to participate in local affairs. The question of the franchise is dealt with in Chapter Two.

NOTES

1. Metropolitan Municipal Authority for the Cape Peninsula, paras. 123-124 also referred to in this study as Slater Two.
2. Slater Two, para. 2.
3. A Spatial Strategy Development for the Western Cape, issued 1980 by the Department of Environmental Planning and Energy, para 1.2.
4. Peter G. Richards, The Reformed Local Government System, p. 182.
5. L.P. Green, History of Local Government in South Africa, pp. 12, 14, 16, 22-25.
6. John R. Shorten, Cape Town, pp. 120 and 122.
7. Undated paper supplied by the Association of Divisional Councils of the Cape titled Memorandum : Divisional System, and Government Gazette number 2628 of the Cape of Good Hope dated 10 July, 1855.
8. Report No. 1 of the Informal Committee of Enquiry into the Functioning of Local Authorities in the Cape (the Saaiman Report), paras. 3.6-3.8.
9. Green, op. cit., pp. 1-4.
10. Green, op. cit., p. 24.
11. Shorten, op. cit., pp. 134-135.
12. Green, op. cit., pp. 21 and 25.
13. See Section 3 of Ordinance 20 of 1974 (Cape).
14. See sections 3, 5 and 24 of Act 26 of 1893.
15. See sections 52, 78, 80, 110-112, 118-124, 125-157, 158-167 and 170 of Act 26 of 1893.
16. The South Africa Act, 1909, as reproduced in The South African Constitution by H.J. May, p. 606.
17. See Section 7 of Ordinance 10 of 1912.
18. Sections 109, 114 and 116 of Ordinance 10 of 1912.
19. See Ordinance 13 of 1917, sections 7, 16, 21 and 330.
20. Ordinance 13 of 1917, sections 25 ff.
21. Ordinance 13 of 1917, sections 108 and 110.
22. Ordinance 13 of 1917, section 100.
23. Ordinance 13 of 1917, sections 115-143.
24. Ordinance 13 of 1917, sections 148-183.

25. Ordinance 13 of 1917, sections 174-318.
26. See Ordinance 20 of 1974 and Ordinance 18 of 1976 in regard to local areas, books of account and by-laws.
27. Sections 7 and 8 of Ordinance 19 of 1913.
28. Sections 1, 11 and 12 of Ordinance 19 of 1913.
29. Section 18 of Ordinance 19 of 1913.
30. Section 19 of Ordinance 19 of 1913.
31. Section 28 of Ordinance 19 of 1913.
32. South African Municipal Year Book, p. 24 and City of Bellville Ordinance, 12 of 1979.
33. Municipal Year Book, p. 25.
34. Municipal Year Book, p. 40.
35. Municipal Year Book, p. 44.
36. Municipal Year Book, p. 48.
37. Given over the telephone by the Town Clerk on 20th November, 1980.
38. Given over the telephone by the Town Clerk on 20th November, 1980.
39. Municipal Year Book, p. 77
40. Given over the telephone by the Town Clerk on 4 March, 1981.
41. Municipal Year Book, p. 89.
42. Municipal Year Book, p. 106.
43. Section 7 of Act 32 of 1961.
44. Sections 24 and 59 of Act 32 of 1961, read with sections 13, 16 and 17 of Act 101 of 1980.
45. Sections 16, 17 and 20 of Act 32 of 1961, read with sections 11 and 40 of Act 101 of 1980.
46. H.J. May, The South African Constitution, pp. 129-130, for example.
47. Section 94 of Act 32 of 1961.
48. Government Gazette 6386 dated 3 April, 1979. See sections 26, 36, 49, 50, 52, 53, 23, 24, 25, 16, 18, 19 and 78.
49. Interim Report of the Commission of Inquiry on the Constitution, PP. 1-6 and Annexures A and B.
50. Section 5 of Act 101 of 1980.
51. Section 34 of Act 101 of 1980.
52. Verloren Van Themaat, Staatsreg, pp. 232-233 and 382.
53. Sections 66 and 83 of Act 32 of 1961.
54. Sections 68, 71, 84, 85, 89 and 93 of Act 32 of 1961, as amended by Act 101 of 1980.
55. Sections 76, 79 and 82 of Act 32 of 1961, as amended by Act 101 of 1980.
56. See items 10, 14 and 20 of Schedule Two of the Financial Relations Act, 65 of 1976.
57. See the applicable sections in Ordinance 17 of 1939 (Transvaal) Ordinance 25 of 1974 (Natal), Ordinance 8 of 1962 (Orange Free State) and Ordinance 20 of 1974 (Cape).

58. See Ordinance 18 of 1976 (Cape).
59. See Chapter VIII of Ordinance 17 of 1939 (Transvaal).
60. See Chapter XIV of Ordinance 8 of 1962 (Orange Free State).
61. See Chapter XIII of Ordinance 25 of 1974 (Natal).
62. See Chapter XIV of Ordinance 25 of 1974 (Natal).
63. See Chapter IX of Ordinance 17 of 1939 (Transvaal).
64. See Chapter XIVA of Ordinance 8 of 1962 (Orange Free State).
65. Verloren Van Themaat, op. cit., pp. 232-237 and 382.
66. Section 59(1) of Act 32 of 1961.
67. Paragraph 164 of the Slater Two Report.
68. J.J.N. Cloete, Munisipale Regering en Administrasie in Suid-Afrika, pp. 42-43.
69. Dilys M. Hill, Participating in Local Affairs, pp. 95-97.
70. J.D. Stewart, Management in Local Government : A Viewpoint, pp. 8-14.
71. A.H. Birch, The British System of Government, pp. 247-250.
72. Peter Self, Administrative Theories and Politics pp. 149 and 254.
73. Martin Cross and David Maller, Local Government and Politics, pp. 5-7.
74. R.J.S. Baker, Administrative Theory and Public Administration, pp. 85 and 89.
75. N.N. Patricios in An Introduction to Local Government, W.D. Hammond-Tooke ed. pp. 1-2.
76. Richards, op. cit., pp. 69-70.

CHAPTER TWO

THE COLOURED MUNICIPAL FRANCHISE AND MANAGEMENT COMMITTEES

THE LEGAL POSITION

1. In terms of section 11(1) of Cape Ordinance 20 of 1974, a person who qualifies as a municipal voter is a natural person who qualifies to be registered as a voter in terms of the Electoral Act, 45 of 1979, and who owns or occupies immovable property within the municipal area. Provision is also made for fictitious persons, that is, persons who are juristic persons, to be enrolled as voters. In terms of section 3 of Act 45 of 1979, the persons qualified to be registered as voters are white persons who are South African citizens over the age of 18 years, and who are not disqualified. The effect of this is that coloured persons generally are not eligible to vote in municipal elections although there is a savings clause in section 11 of Ordinance 20 of 1974, namely, that if the coloured person was entitled to a municipal vote on 1 October, 1971, he may still exercise that vote unless he is eligible to be enrolled as a voter for a management committee. As a large number of management committees have been established in the Greater Cape Town area, the coloured community has effectively been deprived of the municipal franchise. Similar provisions exist in section 11 of the Divisional Councils Ordinance, 18 of 1976.

THE BACKGROUND TO THE FRANCHISE ISSUE

2. There are three official documents of importance to the issue of the coloured municipal franchise:

2.1 The Report of the Committee of Enquiry into the Institution of
Separate/.....

Separate Local Government for Coloured Group Areas, which was signed on 11 March, 1960. This Report is also known as the Rossouw Report.

- 2.2 Die Verslag van die Interdepartementele Komitee van Onderzoek na Versnelde Ontwikkeling van Kleurlinggebiede na Plaaslike Bestuur, March, 1971, and also known as the Botha Committee.
- 2.3 The Report of the Commission of Enquiry into Matters Relating to the Coloured Population Group, which was signed on 9 April, 1976. This report is also known as the Theron Report.

3. There are other documents which also have a bearing on the issue but those listed above are the most important. From the titles of these reports it will be seen that the emphasis is laid on population groups or group areas. As a matter of general background it is therefore reasonable to infer that the question of a racially-divided franchise is in reality tied to the question of racially-separated residential and other areas or as they are commonly known, group areas. Legislation on group areas dates back to 1951, the current legislation being known as the Group Areas Act, 36 of 1966. The essence of this Act is best explained by referring to the definition of group area in section 1(xii):

group area means any area proclaimed or deemed to have been proclaimed under section 23

and a group can mean either the white group, the coloured group, the asian group, or the black group. Section 23 of the Act empowers the State President to declare an area, which must be defined, as an area either for the occupation only or for the ownership only, or for both, by the members of the group specified in the proclamation.

4. The three reports referred to in paragraph 2 supra are discussed below under appropriate sub-headings:

The Rossouw Report

4.1.1 The Committee of Enquiry was appointed by the Administrator of the Cape and consisted of three members, connected with the

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Provincial Council and the Divisional Council of the Cape. The Chairman was Mr. J.D. Rossouw, M.P.C. The terms of reference of the Committee were in essence to report on the desirability of separate boards for coloured group areas and the procedure to be followed in their creation; the division of powers between a white local authority and the proposed coloured board to ensure "effective but separate local government for each group"; as well as the constitution of the boards and consequential matters. The Administrator of the Cape emphasised that the creation of separate coloured local authorities when the time was ripe, was a positive policy of goodwill towards the white and coloured groups, with the object of eliminating friction, ensuring friendly inter-racial co-operation and eventually affording the coloured people an opportunity of full authority in their own areas and of exercising leadership in their own communities.

- 4.1.2 The Committee found that although the coloured people were numerically superior, their voting strength was nowhere near in proportion to their numbers,¹ and it found the answer to this in the fact that the great majority of the coloured people were housed in municipal housing schemes in houses which were leased on a weekly basis which meant that they did not qualify for enrolment as voters in terms of the law as it then was. In fact the Committee observed that municipalities could legally manipulate their voters' rolls by providing low-cost housing leased on a weekly basis, and this was frustrating the State's policy of home-ownership as well as placing an added financial burden on the State as low-cost housing was subsidised.² The Committee identified the real problem as the:

understandable and reasonable view of the municipalities that the numerically strong but financially weak Coloured population may exercise a strong and even dominating influence in the affairs of the community and at the same time do justice to the equally reasonable aspirations of³ the Coloured to exercise a greater say in his own affairs -

and this remains a problem to-day as will be shown when the question of finance is discussed later in this study. In paragraph 31 of the

Report/.....

Report the Committee stated that as negative action was not contemplated, it was not prepared to recommend that the coloured be deprived of the municipal franchise but this statement was not intended to retain the status quo because the Committee, with remarkable frankness, recorded that even the most liberal of councils and councillors would not tolerate "non-European domination of their towns and cities", hoping to control Coloured voting strength by administrative measures. The Committee found this view morally indefensible.⁴

4.1.3 The Committee identified three factors as being essential to any satisfactory system of local government:

4.1.3.1 adequate revenue and capital resources to finance services;

4.1.3.2 a sufficient supply of candidates to stand as councillors; and

4.1.3.3 a pool of personnel within the community to carry out the functions of a local authority -

and came to the conclusion that none of the coloured areas in Greater Cape Town was capable of receiving independent local government for a number of reasons. The first reason was that local authority town planning still treated Coloured areas as integral parts of the municipalities and hardly took account of group areas, a factor for which the Group Areas Board could take some blame. Furthermore housing was not planned on a co-ordinated basis and no attention was paid to the needs of a balanced urban community. The second reason was that services were planned according to local authority area and there was a lack of any logical pattern in the management system of the large-scale municipal services. The areas of municipal jurisdiction did not rest on any basis of logic; the existing system was referred to as being one of duplication and inefficiency. The third reason in effect was that separate Coloured areas could not be financially viable, and would require a measure of subsidy for some time. The fourth reason was the shortage of trained Coloured personnel, while the fifth reason was concerned with the sufficiency of candidates to stand as councillors--the fear was expressed that potential Coloured councillors would not come forward under a separate system.⁵

4.1.4/.....

4.1.4 The eventual recommendation of the Rossouw Committee was that a permanent Urban Areas Council be established as a body corporate, consisting of four to six members appointed by the Administrator, some of whom could possibly be coloured, and at least one of whom should be a Provincial official, with three specific functions, namely:

- 4.1.4.1 to plan the coloured areas on the Cape Flats with a view to developing this whole area as a complete and independent unit or units;
- 4.1.4.2 to act as the link between existing local authorities and Central Government departments and agencies;
- 4.1.4.3 to train coloured personnel in all aspects of municipal government, as independent local government for the coloured community would not be possible until that stage had been reached -

and that proclaimed coloured areas anywhere within the Cape Province be placed within this Council's jurisdiction, that is, that the coloured people be removed from the jurisdiction of the municipalities in which they lived. The idea of a racial qualification for the municipal franchise or a separated voters' roll was rejected to avoid loss of goodwill. The coloured people coming under the jurisdiction of the Urban Areas Council would, however, have a franchise based on the ownership or occupation of immovable property, but it is not clear what value this would have as the councillors would be appointed by the Administrator, who would also, initially at least, appoint the senior personnel. Finally, the Rossouw Committee took the view that in the absence of subsidies from higher tiers of government, the local white population had to continue subsidising coloured areas. It was proposed that divisional councils be deprived of the right to levy rates on areas within the jurisdiction of the Urban Areas Council but that divisional councils still contribute to the development of coloured areas, that is, through the general rate levied on the "white" municipalities.⁶

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The Botha Report

- 4.2.1 This Report was issued in the Afrikaans language and the summary which follows is based on the author's translation. The Report was commissioned by the Minister of Coloured and Rehoboth Affairs and none of the ten members were connected with local government, being drawn from the Provincial Administrations of the Cape, Transvaal, Orange Free State and Natal and the Departments of Justice, Coloured and Rehoboth Affairs, Community Development and Justice, as well as the Administration for Coloured Affairs. Mr. L. Botha of the Department of Justice was the Chairman. The Committee's terms of reference were to investigate and report on which of the densely-populated coloured areas could, individually or in groupings, be elevated to independent local authority status, with reference, inter alia, to size, function, franchise, staffing, joint services with white municipal councils, and the financial implications, with particular reference to rate income and other possible sources of revenue.⁷
- 4.2.2 At the outset the Committee pointed out that tentative proposals to put coloured local government under the control of the Coloured Persons Representative Council were not acceptable to the provincial administrations, who saw local government as their function--that dispute was an important policy matter which required clarification.⁸ The Committee saw its task mainly as the collection of facts.⁹ The Rossouw Committee's proposals referred to supra, were not accepted for a number of reasons, among them conflict with the then Group Areas Act and the fact that the proposed development body would be under provincial control.¹⁰ From this it can be inferred that there was an intention strictly to centralise control over the civic affairs of the coloured people.
- 4.2.3 In 1961 there was apparently a Central Government committee appointed to investigate and report on the development of local government for coloured people in urban residential areas and other towns, and this was known as the Niemand Committee. Copies of this report could not be obtained but the Botha Report states that one of its

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- 4.2.5.1 the will of the community to administer its own affairs separately;
- 4.2.5.2 the capacity of that community to administer its affairs;
- 4.2.5.3 the financial ability and vigour of that community which would make local government possible¹⁵--

and after examining urbanism and population growth, the Committee concluded that separate coloured local government would become necessary. After a survey of the then existing development of coloured areas, personnel and political development--see Chapters Eight and Nine of the Report--the Committee considered whether industrial areas in or near the Cape Flats should be incorporated into coloured local authority areas. The Committee was against the idea for the immediate future, mainly on the grounds of the fact that coloured municipalities would not be able to provide the necessary services, possible racial conflict, and the fact that industrial areas should not have a group areas character.¹⁶

- 4.2.6 It was suggested that the Cape Flats should be regarded as a unit and treated as such but in view of the coloured man's apparent incapacity at that stage "to manage his own affairs" a growth point should be established leading in time to municipal independence.¹⁷ When it came to finances, the Committee concluded that although there was no hard evidence on this point, the coloured man contributed less to municipal income than his white counterpart, to which it added a need to upgrade coloured areas by providing amenities. The Committee was not in a position to estimate the cost of coloured municipal independence, and evaded the issue by recommending that these costs be determined on an ad hoc basis.¹⁸

- 4.2.7 A final conclusion of the Committee was that there was not one coloured area in South Africa where it would be possible to create a viable local authority, because of the lack of managerial ability, trained personnel and adequate sources of income, and the fact that generally, the interests of coloured areas were linked to those of white areas, particularly in the fields of general administration, personnel, finances, assets, etc., to such an extent that a general separation would be a complicated and difficult task.¹⁹

4.2.8 As far as the future was concerned, the Committee identified two approaches. The first was a minority view which regarded local government as a provincial function, with the solution lying in the further development of the management committee system, and an adapted form of divisional council area as the presumably initial, local government. The minority recommended the creation of coloured management areas as the next step from management committees, managed by elected members, and which would have to be financially self-supporting but receiving its services from the white parent local authority. The financial viability would flow from the abolition of the divisional council rate on property in those areas, together with Government assistance for the construction of amenities.²⁰

4.2.9 The approach of the majority was that as the minority view was, inter alia, not in accordance with Government policy, and as the Committee had gained the impression from coloured leaders that a universal municipal franchise was not a real issue, and would in any case make effective local government impossible, the answer lay in a system of growth points by which selected areas could be guided to independent status. Special legislation was proposed for the growth points in terms of which an overall body consisting of experts with a grounding in local government would be appointed to develop the selected growth points to independent local authorities. Once this status had been reached the new local authority would be placed under the control of the then Coloured Persons Representative Council. The first growth point would be the Cape Flats Complex and the funds required would come from moneys voted by Parliament, rates, fines and from confiscations--the Afrikaans word for this being verbeurdverklarings. Contributions would also be required from local authorities which used the relevant coloured area as a source of labour.²¹

The Theron Report

4.3 Neither the Rossouw nor the Botha Reports resulted in any real changes in local government in the Greater Cape Town area: the management committee system continued, but large scale housing at

Mitchells/.....

Mitchells Plain and at the Atlantis Growth Point was commenced. The most important event was the amendment of the Cape Municipal Ordinance to provide that coloured people could no longer be enrolled on the ordinary municipal voters' roll if they were eligible to vote for the election of management committee members; those not so eligible could remain on the voters' roll until removed as just described.²² However, the coloured problem must have continued and been a matter of some anxiety for the Central Government, because on 23 March, 1973, the State President appointed the Commission of Inquiry into Matters Relating to the Coloured Population Group, also known as the Theron Commission, with the task of enquiring into, considering and reporting on:

4.3.1 the progress of the Coloured Population Group since 1960 in -

4.3.1.1 the social sphere with the inclusion of housing and health conditions, community development, education, and all matters relevant thereto;

4.3.1.2 the economic field with the inclusion of commercial and industrial development, agricultural development, general economic development, occupational participation, and all matters relevant thereto;

4.3.1.3 the constitutional field, and all matters relevant thereto;

4.3.1.4 local government and all matters relevant thereto;

4.3.1.5 the sport and cultural fields, and all matters relevant thereto;

4.3.1.6 hindrances in the different fields which could be identified as being obstacles;

4.3.2 any other relevant matters within the scope of the designated field of enquiry, which might come to the attention of the Commission and which in its opinion necessitated enquiry.

4.4 The Commission was under the chairmanship of Professor E. Theron. Because its terms of reference were so extensive in scope,
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working parties were constituted under various Convenors, including one for Government and Administration. The Commission reported on 9 April, 1976, and its report was lengthy, being 576 pages long in the English version. For the purpose of this Chapter of this study, reference will mainly be made to Part IV of the Report which is headed "The Political Position of the Coloured", together with some reference to those other Parts considered necessary. Part IV covers Chapters 16 to 20 of the Report.

5. It seems that the policy behind the creation of the Department of Coloured Affairs, the Coloured Persons Representative Council and the management committee system was based on various perceptions by the ruling party in the Central Government which can be summarised as follows:

- 5.1 coloured persons are a group separate from other race groups but share certain common interests of language and culture with the whites;²³
- 5.2 the removal of the coloured people from the Parliamentary Voters' Roll would improve relationships between whites and coloureds by removing points of friction while at the same time giving the coloured man a chance of exercising his political rights to a greater extent in his own interest and lifting those rights out of the party-political sphere;²⁴
- 5.3 the old system of common political rights had been abused and the proposed policy would enable the white to uplift the coloured community without having the fear that "he is making a noose for his own neck".²⁵ By the time the policy had evolved to this point in 1958, coloureds still had a form of representation in Parliament but by whites only, i.e., they could only vote for those special representatives and no other member of the House of Assembly;²⁶
- 5.4 during 1960 the then Prime Minister announced that the coloured people were to be given the opportunity of developing into a self-governing community, while preserving their own national identity,

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but in parallel with the whites.²⁷ This led in turn to the creation of the Coloured Persons Representative Council in terms of Act 49 of 1964, with the stated objects of being the mouthpiece of the Coloured population, an instrument for consultation with the Central Government, and also an instrument by means of which coloured leaders in the spheres of local government, education, communal welfare and rural areas could lead and serve their community;²⁸

5.5 the implementation of Act 49 of 1964 was delayed while consideration was given to the "improper interference" by members of one population group in the politics of any other population group. In the end, the representation of coloureds by whites in the House of Assembly and the Cape Provincial Council was terminated, Act 49 of 1964, was amended by Act 51 of 1968, and the Administration of Coloured Affairs was established as the administrative organ of the Executive of the Coloured Persons Representative Council;²⁹

5.6 while the idea of a coloured homeland was consistently rejected in the early nineteen-seventies on the ground of being impractical, the idea of integration was rejected with equal consistency. In other words, the concept of parallelism was retained but with recognition of the fact that the white and coloured in practice had to co-exist, i.e., they had to have some form of liaison.³⁰

6. With regard to local government, the Theron Commission stated that the intention of the original Group Areas Act, 41 of 1950, was that coloured group areas would remain integral parts of the local authorities in which they were located, but with some sort of "governing body", something which never materialised. The local government arrangements for the coloured people consisted of management or consultative committees.³¹ A survey of white municipalities and coloured management committees revealed a dichotomy between the race groups. Out of 51 "white" municipalities, one, the Cape Town City Council, was opposed to separate coloured municipalities, while 50 were in favour, provided leaders and personnel with knowledge and experience were available, and coloured areas did not become a drain on white areas; Government subsidies had to be provided.³² This latter view that coloured areas must, in respect of all

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civic financial matters, be treated as financially separate from neighbouring white areas is a pernicious doctrine which should firmly be rooted out of civic affairs as it does violence to the broad concept of a community. Carried to its logical conclusion, it means that the disadvantaged would never be allowed to break out of the cycle of poverty, lack of education and crime into which they are locked. Stated baldly it means that white areas can make economic use of the labour derived from coloured areas without in any way being or becoming responsible for that labour in any social or financial sense, thus ignoring the interdependence of the race groups. A further consequence would be that white areas would become more affluent while coloured areas would become poorer until the stage was reached at which actual violence would inevitably result.

7. Of the 42 Coloured management committees which responded to the Theron Commission, 23 favoured the establishment of independent coloured municipalities in principle, but only in the larger urban centres, subject to financial assistance being granted, and to trained and experienced staff being available. The remainder, who opposed separate coloured municipalities, came from the larger urban centres, and based their objection to separate local government on the fact that Coloured communities should be represented on the councils of the existing municipalities.³³ The Theron Commission also observed that the system whereby the Coloured Persons Representative Council had inherent jurisdiction over coloured local government matters, while the provincial councils retained their concurrent jurisdiction over local government, resulted in overlapping and divided control, leading to confusion and a lack of effective activation of the management committee system at local level because the C.P.R.C. could not activate these committees, together with a lack of effective overall control and co-ordination of the application of the system.³⁴ The Commission also noted a marked lack of enthusiasm for the system by coloured people generally and by some whites, except in country towns in the Cape Province and in centres in the Orange Free State and the Transvaal; those who objected did so partly because of the principle involved and partly because of practical considerations.³⁵

8. The majority of the Theron Commission recommended that a committee of experts be appointed to examine and report on satisfactory forms of direct coloured representation and a direct say for coloureds at the various levels of government; this would mean acceptance of changes to the Westminster system of government.³⁶ The minority view was that acceptance be given to the idea of changing the Westminster system of government and that existing governmental institutions be re-examined and re-assessed with a view to the effective participation of the coloured population group in the government of the country at the local as well as the central government levels, and that a committee of experts be appointed to make more detailed proposals to ensure stable economic and political development.³⁷ The majority referred to satisfactory forms of direct representation and a direct say in government, while the minority referred to effective participation in government. That was in 1976 and no amount of nomenclatural shifting of position can disguise the real issue, which is whether members of the coloured group are to be re-admitted to the municipal franchise or to continue to be excluded from it. The Government's White Paper on the Theron Commission Report will also be dealt with at a later stage.

9. It is worth noting at this stage one finding of the Cillie Commission into the 1976 riots, to the effect that discrimination had not only engendered dissatisfaction but also a great hatred in many persons, and this dissatisfaction and hatred were some of the main factors that created the milieu and the spirit of revolt referred to elsewhere in the Commission's report.³⁸

The Management Committee System

10. The origin of the management committee system lies in the substitution for section 25 of the former Group Areas Act, 77 of 1957, of two new sections, 25 and 25 bis, and when the 1957 Act was repealed and replaced by a consolidated Group Areas Act, 36 of 1966, these provisions were retained as sections 28 and 29. In essence, section 28 empowers the provincial councils to legislate for management or consultative committees, while section 29 empowers the responsible Minister to launch investigations into the desirability or otherwise of establishing a local authority for an area which has a management committee.

11. The Cape Provincial Council accordingly enacted the Local Authorities (Development according to Community) Ordinance, 6 of 1963, which authorised the Administrator, after consultation with the responsible Minister to establish for any group area except a white group area, consultative or management committees within the area of jurisdiction of a local authority. While this could give the impression that blacks also could have these committees, in fact Parliamentary legislation specifically excluded this.^{38A} Only members qualified for the group area concerned, excluding blacks, could serve on a consultative or management committee. A management committee has such powers, functions and duties as may be conferred by or imposed upon it by regulation, and shall exercise its powers, carry out its functions and perform its duties on behalf of and under the supervision and control of the local authority concerned and subject to such conditions as the Administrator may determine.³⁹

12. Where a management committee has been established, a person qualified to vote at management committee elections is deprived of his municipal vote by being deemed not to form part of the local authority.⁴⁰ The Administrator may also, after consultation with the responsible Minister, launch investigations into the desirability or otherwise of establishing a local authority for any area for which a management committee or committees has or have been established.⁴¹ Finally the Administrator may make regulations on a wide range of matters concerning or related to management committees, including the election or nomination of members, their tenure of office, the qualifications of voters, etc.⁴² Consultative committees will no longer be mentioned as there are none in the Greater Cape Town area.

Management Committee Regulations

13. The Administrator of the Cape has made regulations in terms of Ordinance 6 of 1963 for management committees in coloured group areas.⁴³ These regulations deal with a variety of matters, the most important of which are summarised below:

13.1 The general purpose of a management committee is to promote the
interests/....

interests and welfare of the inhabitants of its area and to bring all matters which may relate thereto to the notice of the council having jurisdiction.⁴⁴ This contrasts with sections 3 and 4 of the Municipal Ordinance, 20 of 1974, which respectively constitute the inhabitants of a municipal area as a legal persona known as a municipality, and provide for the municipality to be governed and represented by an elected council. In other words, a management committee may be elected but it is not or cannot in its present form be, a municipality as it lacks the requirements of separate corporate existence and government by elected representatives.

- 13.2 Members of these committees may be appointed or elected depending on how long the committee has been in existence. Where elections are held, the period of office is four years, with half the members retiring every two years. The only office-bearers permitted are a chairman and a vice-chairman.⁴⁵
- 13.3 Secretarial services must be provided by the council having jurisdiction and at least one ordinary meeting must be held every month.⁴⁶
- 13.4 The council in whose area of jurisdiction a management committee falls must consult that committee in regard to the following functions:
 - 13.4.1 proposals in respect of the estimates, including proposals in respect of the capital estimates;
 - 13.4.2 the implementation of these proposals, including those relating to -
 - 13.4.2.1 the levying of rates;
 - 13.4.2.2 the levying of charges for services;
 - 13.4.2.3 the spending of funds on permanent improvements and development works;
 - 13.4.2.4 the raising of loans;
 - 13.4.2.5 the construction, building, alteration, cleaning, repairing, closing and deviation of public streets;
 - 13.4.2.6 the establishment or taking over of cemeteries and the transfer thereof to any body;
 - 13.4.2.7/.....

- 13.4.2.7 the establishment, erection, maintenance and closing of markets and market buildings, including leases and rents in respect thereof;
- 13.4.2.8 the establishment and maintenance of fire and emergency services;
- 13.4.2.9 the establishment, provision, maintenance, improvement, discontinuance or closing of public libraries and parks, facilities for bathing, pleasure, sports, picnicking and camping and health and recreation resorts, together with huts, pavilions, refreshment rooms and other accommodation and amenities connected therewith;
- 13.4.3 the use of ways and means to prevent nuisances and contraventions of the by-laws of the council;
- 13.4.4 the proposed promulgation of any regulations by the council;
- 13.4.5 the planning and carrying out of housing schemes;
- 13.4.6 the drawing up and preparation of any town planning scheme, and its amendment;
- 13.4.7 the provision, extension, curtailment or discontinuance of any child welfare services and facilities;
- 13.4.8 the appointment of coloured staff who will be employed mainly or exclusively within the committee's area;
- 13.4.9 the leasing, alienation and use of immovable property owned by or under the control or management of the council and which is situated within the area of the management committee;
- 13.4.10 such other matters as the Administrator may in his discretion and after consultation with the council from time to time direct.⁴⁷

The Powers, Duties and Functions of Management Committees.

14. The powers, duties and functions of a management committee are limited to those powers, duties and functions that the Administrator may determine specially or generally and convey in writing to the council, from the following list -

- 14.1 the right to inspect council-owned buildings, capital works and assets in the management committee area, and to report and make recommendations thereon to the council;

14.2/.....

- 14.2 the right to report back on the work and functions of coloured employees who are employed mainly or exclusively within the management committee area, and to make recommendations to the council to ensure effective administration;
- 14.3 the right to carry out inspections and to gather information in connection with the enforcement, amendment or repeal of the by-laws of the council in so far as they are applicable in its area, and to make recommendations connected therewith;
- 14.4 the right to obtain information from the council and to make recommendations to the council in connection with the collection of revenue and the spending of money made available, through the estimates for the area, within the committee's area;
- 14.5 such other powers, duties and functions as the Administrator may in his discretion and after consultation with the council from time to time determine.⁴⁸

Voters' Rolls

15. A voters' roll has to be compiled and the qualifications of voters are either a coloured person of the age of 18 or over or a fictitious person who on the first day of January, in any year owns or occupies immovable property in a committee area.⁴⁹

16. Every person who is a voter and not disqualified, e.g., because he is insolvent or has been convicted of a crime or is insane, etc., is eligible to be elected as a member of a management committee.⁵⁰

The Number of Management Committees in Greater Cape Town.

17. Management committees have been created within those municipalities, and the Divisional Councils of the Cape and Stellenbosch, which have coloured group areas but within the Cape Town Municipality, there are areas such as Retreat and Mitchells Plain which do not have management committees. No reason can be traced for this anomaly. The following table sets out the position.

Table 1/.....

Table 1 : Number of Management Committees in the Greater Cape Town Area.⁵¹

| <u>Name of Local Authority</u> | <u>Number of Management Committees</u> | <u>Total Number of Members</u> |
|--------------------------------|--|--------------------------------|
| City of Cape Town | 4 | 25 |
| Divisional Council of the Cape | 6 | 42 |
| City of Bellville | 1 | 6 |
| Durbanville Municipality | 1 | 6 |
| Kraaifontein Municipality | 1 | 6 |
| Kuils River Municipality | 1 | 8 |
| Parow Municipality | <u>1</u> | <u>6</u> |
| | <u>15</u> | <u>99</u> |

18. Brackenfell, Fish Hoek, Goodwood, Milnerton, Pinelands and Simon's Town are all, according to the survey, either white areas or areas with a coloured population too small to justify a management committee.

19. Taking the Official South African Municipal Year Book for 1979 as a population guide, it will be seen that the total coloured and white populations for the areas listed above and the remaining areas, the representation of the coloured people, who are numerically superior, is at local government level below that for whites.

Table 2 : Comparison of Population and Representation in Greater Cape Town

| <u>Name of Local Authority</u> | <u>Population</u> | | <u>Number of Councillors</u> | <u>Number of Management Committee Members</u> |
|--------------------------------|-------------------|-----------------|------------------------------|---|
| | <u>White</u> | <u>Coloured</u> | | |
| City of Cape Town | 261 160 | 513 790 | 34 | 25 |
| Divisional Council of the Cape | 30 800 | 237 860 | 15 | 42 |
| City of Bellville | 45 000 | 28 000 | 10 | 6 |

Brackenfell/.....

| <u>Name of Local Authority</u> | <u>Population</u> | | <u>Number of Councillors</u> | <u>Number of Management Committee Members</u> |
|--------------------------------|-------------------|-----------------|------------------------------|---|
| | <u>White</u> | <u>Coloured</u> | | |
| Brackenfell | 6 500 | 2 | 6 | N/A |
| Durbanville | 10 280 | 2 350 | 6 | 6 |
| Fish Hoek | 7 400 | 190 | 6 | N/A |
| Goodwood | 28 710 | 300 | 8 | N/A |
| Kraaifontein | 13 664 | 15 762 | 8 | 6 |
| Kuils River | 6 500 | 5 900 | 8 | 8 |
| Milnerton | 18 680 | 3 500 | 8 | N/A |
| Parow | 37 250 | 31 800 | 8 | 6 |
| Pinelands | 12 500 | 450 | 6 | N/A |
| Simon's Town | <u>5 550</u> | <u>86</u> | <u>8</u> | <u>N/A</u> |
| | <u>483 994</u> | <u>839 990</u> | <u>131</u> | <u>99</u> |

20. When it is understood that there are nearly two coloured people for every white person in the area, this community's representation and the nature of that representation can hardly be described as bringing it within the mainstream of local government for the area.

Coloured Attitudes

21. Understandably, there has been resistance within the Coloured community to the management committee system. What follows is a cross-section of those views:

21.1 At its 1978 Congress the Association of Management Committees rejected the new constitutional proposals--see para. 27 of Chapter One-- as far as local government was concerned and maintained that direct representation, which includes the right to vote and be voted for, for all South Africans, irrespective of race and colour, is the only means by which local government can be administered. The Congress re-affirmed previous resolutions taken at Congresses of the Association.⁵²

21.2 At the 1979 Congress of the Association of Management Committees resolutions were passed to the effect that negotiations be opened with the Government through the Prime Minister in pursuance with the Association's policy of direct representation.⁵³

- 21.3 The Labour Party wanted the management committee system abolished but feared that if its members unilaterally withdrew, there would remain others who would work with the Government, thereby perpetuating the system.⁵⁴
- 21.4 The metropolitan area should be divided according to a system of boroughs, with registered voters not being apportioned on a racial basis, with a view to forming a metropolitan municipal government for Greater Cape Town. No minority protection would be needed as in a democracy all the inhabitants of the area would derive the benefits of a larger metropolitan area.⁵⁵
- 21.5 The Executive Committee of the Association of Management Committees reported to the 1980 Congress that the Natal counterparts of management committees, known as local areas committees, had been unable to obtain changes in the system. The Executive Committee added that arrangements had been set in motion for a meeting with the Prime Minister.⁵⁶
- 21.6 At the 1980 Congress of the Association of Management Committees, motions were submitted by the Ocean View, Riversdale, East London and Athlone and District Management Committees as follows:
- 21.6.1 the Ocean View Committee wanted management committees abolished and full civic rights granted to all;
 - 21.6.2 the Riversdale Committee wanted full participation in the decision-making process in relation to the coloured community;
 - 21.6.3 the East London Indian Committee wanted all races to be eligible to serve on councils and thus to take part in decision-making;
 - 21.6.4 the East London Coloured Committee wanted the power to serve on municipal committees, with full voting powers;
 - 21.6.5 the Athlone and District Management Committee wanted the management committee system disbanded, and for all members affiliated to the Association to distance themselves from the Coloured Persons Council.⁵⁷

21.7 The Botha Committee acknowledged that in the Cape Province there had been an unstated degree of resistance to the management committee system. It ascribed this to the fact that as the coloured people, at that time, still possessed the municipal vote, they regarded the system as inferior, adding that some of the rejection also flowed from those not in favour of Government policy. The Botha Committee also stated that progress, presumably with this system, had been made more difficult by the coloured man's lack of experience and expertise in management and administration.⁵⁸

21.8 The Theron Commission found that in the larger urban areas the management committees there were strongly opposed in principle as well as on practical grounds to the idea of separate Coloured municipalities. The weight of opinion was that coloured rate-payers under a ward system should be represented on existing councils. Of those who in principle favoured separate coloured municipalities, the majority were of the opinion that those municipalities should only be established in the larger towns, and then only if the necessary finance and trained and experienced staff were available.⁵⁹

22. The above sample is sufficient to demonstrate that in Greater Cape Town at least, the majority of the coloured community is totally opposed to being excluded from the normal municipal process as well as to ideologically-based separate municipalities. There are, however, indications in the Theron Report that in the rural areas there are members of the coloured community who are prepared to accept separate municipalities, provided financial support is given. As many of the problems of the coloured community, as will be shown in succeeding Chapters, cannot be solved without inputs from outside that community, it is understandable that many coloured people want to participate in integrated local government.

THE GOVERNMENT'S ATTITUDE TO THE THERON COMMISSION AND SUBSEQUENT DEVELOPMENTS

23. In its White Paper issued during 1977, the Government commented on the majority view of the Theron Commission--see paragraph 8 supra--to the effect/.....

effect that coloured persons should be given a direct say in the various levels of government, and that changes in the Westminster system of government would have to be considered. The Government stated that a special Cabinet committee had been appointed, to consult with experts outside Parliament, to examine the constitutional position and also to investigate a constitutional dispensation for coloured and indian persons, with due regard to "possible and desirable changes in the constitutional system of the R.S.A." As far as local government was concerned the White Paper stated that the Theron Commission had not made any specific recommendations. However, a Committee of Inquiry had been appointed to go into the establishment of independent local authorities in certain coloured areas, with terms of reference which covered the problems outlined in Chapter Nineteen of the Theron Report. If independent local authorities were to be established in coloured areas, this would be done on the findings of the Committee of Inquiry and of the inquiry into the Westminster system of government.⁶⁰

24. No report can be obtained from a Committee of Inquiry into the establishment of independent coloured local authorities but this Committee is believed to be the Yeld Committee, and to have presented a report which has not been made public. This assumption is borne out by an answer given to a question asked in Parliament. The question, from Mr. C.W. Eglin, M.P., asked whether the committee appointed to investigate autonomous coloured local authorities had completed its investigation, and if so, what recommendations had been made, and in respect of what areas. The Minister of Coloured Relations replied that the committee had not completed its investigations but an interim report had been submitted to the Government which would consider that report together with the report of the Committee of Enquiry into the Financing of Local Authorities, also known as the Browne Committee.⁶¹ To a further but similar question from Mr. B.W.B. Page, M.P., the Deputy Minister of Coloured Relations added that a final report was expected on completion of the Yeld Committee's investigations, and that the terms of reference of that Committee had been extended to include a possible management system for the smaller non-viable coloured areas "not likely to develop into autonomous local authorities in the foreseeable future".⁶²

25. Tracing Central and Provincial Government views from the Rossouw Report onwards, it is possible to identify their viewpoints as developing along the following lines:

- 25.1 the separation of white and coloured citizens of municipalities was perceived as a positive means of reducing inter-racial friction, although it was accepted that this would not satisfy the coloured man. Part of the real reasons for this view seemed to be based on the poverty and size of the coloured community in an area such as Greater Cape Town, and an implication that the coloured man was not sophisticated enough to operate and staff a system of local government--see paras. 4.1.2, 4.1.3, 4.2.3, 4.2.4, 4.2.5 and 4.2.7 supra, in particular;
- 25.2 both the Rossouw and Botha Committees stated pre-conditions for the establishment of local authorities. In the case of the Rossouw Committee these were adequate revenue, a sufficient supply of candidates to stand as councillors, and a pool of personnel from within the community to carry out the necessary functions, while the Botha Committee stated its pre-conditions as being the will of the community to administer its own affairs, the capacity of the community to administer its affairs, and the financial ability of that community to administer its own affairs--see paras. 4.1.3.1, 4.1.3.2, 4.1.3.3, 4.2.5.1, 4.2.5.2 and 4.2.5.3 supra;
- 25.3 the pre-conditions of both Committees cannot be excepted to in principle. What is relevant, and what therefore becomes a main issue, is what is considered to be a community. It is suggested that two main views are possible on this issue, viz., that a community consists of persons identifiable according to some particular characteristic such as colour or race, or that a community consists of all the persons within a geographic area who for a diversity of reasons, such as historical factors, economic interests or future hopes for an improved quality of life, for example, agree to share in a common effort to preserve that community and to make it prosper, and because of this, to work together in managing the civic affairs of the community. When regard is had to the nature of Greater Cape Town--see Chapters Three and

Four--which confirms the fact that the white and coloured residents of the area share a common destiny to the extent that entirely separate existences are not possible, it becomes clear that for Greater Cape Town, the second view of a community is the only acceptable one;

25.4 The Theron Report put the issue squarely before the Government, viz., that coloured aspirations required satisfactory forms of direct representation--see paragraph eight supra. However, the Government's White Paper evaded the issue and by 1977 no commitment had been made to the franchise system for local government, which remained essentially white.

26. It is in the light of this background that more recent developments can be assessed. The Schlebusch Commission into the Constitution which followed the Theron Commission did not deal with local government but it expressed the opinion that the Westminster system of government, in an unadapted form, did not provide a solution for the constitutional problems of the Republic, and that as a one-man-one-vote system would probably lead to the domination of minorities by majorities, and to serious conflict, the Westminster system did not provide a framework for peaceful co-existence. The Schlebusch Commission was also of the opinion that in the process of designing future constitutional structures there should be the widest possible consultation and deliberation with and among all population groups, in an attempt to raise the level of acceptability of any proposals in this regard. The Schlebusch Commission recommended the formation of the President's Council--paragraph 28 of Chapter One.⁶³

27. The opinions and recommendations of the Schlebusch Commission do not seem to indicate any particular direction towards which constitutional systems would be changed. Indeed, while the Westminster system of government is impliedly rejected in favour of constitutional systems still to be designed, any new system would have to be raised to a "level of acceptability" which cannot be construed as leading to non-racial municipal government. The Schlebusch Commission proposals were preceded by the constitutional proposals in the Bill published on 3 April, 1979, which provided for separate but parallel representation--see paragraph 27 of Chapter One. This system would be tantamount to

retaining/.....

retaining the former Coloured Persons Representative Council and the South African Indian Council in a new form, although there would be a measure of shared administrative power at executive or cabinet level; i.e., the sharing of power would devolve down to the administrative level and away from the political level.

28. During February, 1980, the Prime Minister submitted A National Party pamphlet which is commonly known as the Twelve-Point Plan, and this Plan sets out twelve points upon which justice would be done to every population group in South Africa. The twelve points are preceded by a statement attributed to the Prime Minister in which, inter alia, he is reported as believing that the coloured community must be empowered to handle those of their own affairs that directly concern them. The Prime Minister is reported as believing in the decentralisation of power as far as it does not obstruct effective decision-making by the State. Those of the twelve points considered to be relevant to the present study are as follows:

1. The recognition and acceptance of the existence of multi-nationalism and of minorities in South Africa.
2. The acceptance of vertical differentiation with the built-in principle of self-determination on as many levels as possible.
4. The division of power among white South Africans, the coloured and the South African indians within a system of consultation and joint responsibility where common interests are at issue.
5. The acceptance of the principle that each group should have its own schools and communities where possible, as fundamental to happy social circumstances.
6. The willingness to work together as equals and to consult on issues of common concern, while maintaining a healthy balance between the rights of the individual and those of the community, and the removal of unnecessary hurtful forms of discrimination.⁶⁴

29. The points stated above are difficult to analyse with regard to possible changes in municipal government but the following guidelines can be extracted:

29.1 the acceptance of multi-nationalism means that the division of the population of the Republic on political and social lines will continue. However, it is very difficult to deal with the coloured community as an entirely separate race, with an existence apart from that of the white community. As the Botha Committee reported, they discovered that the coloured man sought to identify with the white man,⁶⁵ while the Theron Commission stated that in its policy of parallelism the Government had accepted that the white and coloured had to co-exist.⁶⁶ Another practical political problem is the stated fear of whites that they would be swamped by a coloured majority which would demand higher taxation to meet its needs. For example, the Rossouw Committee identified the real problem as the -

understandable and reasonable fear of the municipalities that a numerically strong but financially weak - coloured population would dominate them,⁶⁷ while the Botha Committee implied this with its insistence on parallel systems of local government.⁶⁸ The Theron Commission found that the majority of the white municipalities surveyed favoured separate development;⁶⁹

29.2 vertical differentiation is explained as being a consequence of the acceptance of multi-nationalism, i.e., as separate but equal opportunities for every population group. This can only be construed as an intention to continue race separation but it is obscure in respect of local government--see infra;

29.3 the division of power between white, coloured and indian does not necessarily exclude a form of "mixing" at local government level, particularly when coupled with consultation and joint responsibility where common interests are at issue;

29.4 the principle of the separation of schools and communities again does not exclude a common municipal franchise. Indeed, this study

is/.....

is based on the realisation that residential separation is likely to remain under the present Government, as well as the fact that any metropolitan system of government cannot avoid being influenced by what has been done under the Group Areas Act, 33 of 1966, and its predecessors;

29.5 willingness to work together on common issues coupled with the removal of unnecessary, hurtful forms of discrimination does seem to indicate a tentative willingness to consider alternatives.

30. Since the issue of the Twelve-Point Plan two events were reported which give some hope that material changes in local government might yet come about. These are:

30.1 a news report that the Government had initiated talks with coloured and indian leaders on the possible creation of metropolitan and regional boards consisting of white, coloured and indian "leaders", with powers derived partly from local government and partly from provincial administrations.⁷⁰ The only disturbing factor is the reference in the report to "leaders" which could be an indication that the metropolitan councillors would be appointed and hence not representative, which in turn would give rise to more conflict and protest;

30.2 a news report that the Labour Party had been given a mandate by the party executive to negotiate with the Government on certain issues, one of which was that the management committee system be abolished and replaced by direct representation on all local government institutions irrespective of race or colour.⁷¹

31. As matters stand at the time of writing it is impossible to discern any clear direction towards political changes in the local government system but the most recent developments seem to indicate an acceptance of such changes, without defining them in any way. It is mentioned for the sake of completeness that the National, New Republic, Progressive Federal and Labour Parties were all approached for their views on the subject matter of this study but none of them responded.

THE FUTURE

32. The Rossouw Committee sought to find a parallel system of local government for the coloured community by establishing a special development board but its views were not accepted, presumably because the Government did not wish to entrust the implementation of its policies to the provincial administrations. The Botha Committee opted for the removal of the coloured municipal franchise coupled with a more intensive development of coloured growth points, leading to eventual municipal autonomy. The only visible result of this Report was the removal of the coloured municipal franchise. The Theron Commission identified coloured resentment at their diminished local government status and recommended an investigation into direct representation at all levels of government.

33. It is also clear that the majority of the coloured people in the Cape Province are not satisfied with, nor will they accept, the loss of a political right which they once enjoyed. The need for the rationalisation of municipal government to a state of being responsive and sensitive to public needs is obvious. However, until the political situation is solved satisfactorily it is unlikely that this will happen as the political issue will act both as a brake and as a source of confusion to reasonable and necessary reforms of municipal government. Given the heterogenous nature of the society living in Greater Cape Town and the complex and urgent problems existing in the area, it is essential that municipal government in the area be reformed in order to assist in the creation of a stable and orderly society. A failure to reform, and a failure to evolve a political system acceptable to white and coloured alike must inevitably result in resentment, friction and ultimately, actual conflict.

34. The fears of the whites, it is considered, are mainly based on a fear of losing the quality of life they presently enjoy, and this view cannot simply be brushed aside.⁷² That the Greater Cape Town area has severe financial and social problems cannot be denied, as will be shown in Chapters Three and Four, but if the financial problem can be solved, then the political problem recedes in importance.

35. It is therefore recommended that any system of metropolitan municipal government for Greater Cape Town be based on a common municipal franchise. The details and nature of this franchise will be described in the constitutional model to be developed for the Greater Cape Town area in Chapter Seven.

36. As a final footnote, some reference is made to the views of Da Madariaga on the Westminster system of government. He believed that universal suffrage on a national scale would not necessarily bring about better government because, in his view, the foundation of government was at the local level. Thus he is reported as having said:

I have already mentioned that the Municipal Council is the level at which universal suffrage should apply ... The true liberal does not start from a central government which delegates certain of its powers to the borough ... (but) from the very foundation of social nature ... which is the Family, in the heart of which moves and acts the freedom of the individual ... (If) ... the 'one man one vote' ... system does not work anywhere ... one must have the courage to remodel the system from top to bottom ... ⁷³

37. If reformed systems of government are to come to the Republic with peace, order and good government, then it is suggested that those reforms should start with local government and be tested and refined before starting with higher levels of government so that all problem areas can be eliminated before a commitment is made to principles at higher government levels, which might not work.

NOTES

1. See paragraph 19 of the Rossouw Report.
2. See paragraphs 21-26 of the Rossouw Report.
3. Paragraph 30 of the Rossouw Report.
4. See paragraphs 33-35 of the Rossouw Report.
5. See paragraphs 39, 47-51, 56-58, 66, 67, 68-69 of the Rossouw Report.

6. See paragraphs 83-87, 97-100, 119-123 and 124 of the Rossouw Report.
7. See paragraph one of the Botha Report.
8. See paragraphs 2.2 to 2.4 and 2.6 of the Botha Report.
9. See paragraph 2.6 of the Botha Report.
10. Paragraph 4.2 of the Botha Report.
11. See paragraphs 4.4 to 4.9 of the Botha Report.
12. Paragraph 4.9 and 4.12 of the Botha Report.
13. Paragraphs 5.3 and 5.7 of the Botha Report.
14. See paragraph 5.11 of the Botha Report.
15. Paragraphs 6.4, 6.10, 10.1 and 10.2 of the Botha Report.
16. Paragraphs 15.3, 13.9 and 10.2 of the Botha Report.
17. Paragraph 11.7 of the Botha Report. The words in quotation marks are the author's translation from the Afrikaans.
18. See paragraphs 12.2, 12.3 and 12.4 of the Botha Report.
19. See paragraph 15.3 of the Botha Report.
20. Chapter 16 of the Botha Report.
21. Paragraphs 17.2, 17.5.1, 17.5.2 and 18.1.1 of the Botha Report.
22. See section 11 of Ordinance 19 of 1971. There is a similar provision in the Divisional Councils Ordinance, 18 of 1976.
23. Paragraph 16.16 of the Theron Report.
24. Paragraphs 16.17 and 16.18 of the Theron Report.
25. Paragraph 16.18 of the Theron Report.
26. Paragraph 16.19 of the Theron Report.
27. Paragraph 16.21 of the Theron Report.
28. Paragraph 16.36 of the Theron Report.
29. Paragraphs 16.37-16.39 of the Theron Report.
30. Paragraphs 16.40-16.48 of the Theron Report.
31. Paragraphs 19.2 and 19.45 of the Theron Report.
32. Paragraph 19.134 of the Theron Report.
33. Paragraphs 19.137 and 19.138 of the Theron Report.
34. Paragraphs 19.155, 19.156 and 19.160 of the Theron Report.
35. Paragraph 19.165 of the Theron Report.
36. Paragraph 178 of the Theron Report.
37. Paragraph 178 of the Theron Report.
38. Paragraph 14.41, page 604, of the Cillie Commission Report.

- 38A. See, for example, Act 45 of 1971.
39. Section 2(1) and (4) of Ordinance 6 of 1963 (Cape).
40. See section 2(5) of Ordinance 6 of 1963 (Cape).
41. See section 3 of Ordinance 6 of 1963 (Cape).
42. See section 4 of Ordinance 6 of 1963 (Cape).
43. Regulations relating to Management Committees for Coloured Group Areas, P.N. 1243/1976.
44. Section 2 of the Regulations.
45. Sections 3, 4, 6 and 37 of the Regulations.
46. Sections 6(3) and (7) of the Regulations.
47. Section 14 of the Regulations.
48. Section 15 of the Regulations.
49. Sections 16, 17, 19 and 20 of the Regulations.
50. Section 30 of the Regulations.
51. Information supplied in reply to questionnaire survey and by the Principal Housing Manager of the Divisional Council of the Cape.
52. As reported in the Finale Verslag van die Werkkomitee wat Onderzoek ingestel het na die Bevoegdhede, Pligte en Funksies van Bestuurskomitees, p.2.
53. Resume of Resolutions adopted at the 1979 Congress of the Association of Management Committees, p.2.
54. Argus, The, 30th June, 1980, p.18.
55. Questionnaire returned by the Ocean View Management Committee. It was the only one to do so.
56. Report of the Executive Committee of the Association of Management Committees, pp. 30-35.
57. The Agenda for the 1980 Congress of the Association of Management Committees, pp. 58-62.
58. The Botha Committee Report, paragraphs 14.6 and 14.8.
59. The Theron Commission Report, paragraphs 19.317 and 19.138.
60. White Paper on the Theron Commission Report, pp. 84-85.
61. Hansard, 13 February, 1980, column 58.
62. Hansard, 13 February, 1980, columns 845-846.
63. The Schlebusch Commission Report, p. 4
64. The Twelve-Point Plan, pp. 1-2.
65. See paragraph 4.12 of the Botha Report.

66. See paragraphs 16.40-16.48 of the Theron Commission Report.
67. Paragraph 30 of the Rossouw Committee Report.
68. See, for example, paragraphs 5.3 - 5.7 of the Botha Report.
69. Paragraph 19.134 of the Theron Commission Report.
70. Argus, The, 9 September, 1980, p. 10.
71. The Cape Times, 30 December, 1980, p. 3.
72. See for example paragraphs 25 and 26 supra; David Welsh, 'Total Strategy' has a long reach, the Cape Times, 14 March, 1981, p. 8; and paragraph 30 of the Rossouw Committee Report.
73. Salvador da Madariaga, In Place of Westminster, South Africa International, pp. 123-124.

CHAPTER THREE

THE NATURE OF GREATER CAPE TOWN

INTRODUCTION

1. In order to produce administrative or constitutional models for the municipal government of Greater Cape Town it is necessary to study the area and to examine its strengths and weaknesses. This Chapter will be devoted to a general survey of the area in respect of its population, composition, social structures and problems, its development, both past and present, and its economy. Chapters Four and Five will continue the survey in the narrower context of local government. A questionnaire survey was conducted among the thirteen local authorities involved and a copy of the questionnaire is attached as Appendix One. When it comes to the analysis of questions 21, 22 and 23, viz., the development, land use zoning and urgent problems of the area, no information could be obtained from the City of Cape Town.

POPULATION

2. Population needs to be discussed under the sub headings of present size, distribution, past growth and future projections.

Present/.....

Present Size of Population : Table 3¹

| <u>Local Authority</u> | <u>White Persons</u> | <u>Coloured Persons</u> | <u>Black Persons</u> |
|-----------------------------------|----------------------|-------------------------|----------------------|
| City of Cape Town | 261 160 | 513 790 | 105 580 |
| Divisional Council of the Cape | 30 800 | 237 860 | 55 490 |
| City of Bellville | 45 000 | 28 000 | 100 |
| Brackenfell | 6 500 | 2 | 601 |
| Durbanville | 10 280 | 2 350 | 280 |
| Fish Hoek | 7 400 | 190 | 90 |
| Goodwood | 28 710 | 300 | 80 |
| Kraaifontein | 13 664 | 15 762 | 50 |
| Kuils River | 6 500 | 5 900 | 35 |
| Milnerton | 18 680 | 3 500 | 1 000 |
| Parow | 37 250 | 31 800 | Nil |
| Pinelands | 12 500 | 450 | 20 |
| Simon's Town | <u>5 550</u> | <u>86</u> | <u>142</u> |
| | <u>483 994</u> | <u>839 990</u> | <u>163 468</u> |

3. Those municipalities which responded to the questionnaire sent to them, in some cases included asians under coloureds and their figures are based on estimates. The municipalities of Durbanville and Kraaifontein did not respond. The results of the survey are given in Table 4 below.

Adjusted Population for Respondent Local Authorities : Table 4²

| <u>Local Authority</u> | <u>White Population</u> | <u>Coloured Population</u> | <u>Asian Population</u> | <u>Black Population</u> |
|-----------------------------------|-----------------------------|--------------------------------|-----------------------------|-----------------------------|
| City of Cape Town | 261 160 | 513 790 | 11 660 | 105 580 |
| Divisional Council of the Cape | 31 280(+) | 256 620(+) | 2 000 | 55 490 |
| City of Bellville | 48 000 | 30 000(+) | Not stated | Not stated |
| Brackenfell | 6 500 | 2 | Nil | 800(+) |
| Fish Hoek | 7 440 | 190 | Nil | 90 |
| Goodwood | 28 710 | 300 | Nil | 80 |
| Kuils River | 6 800(+) | 6 200(+) | Nil | Nil(-) |
| Milnerton | 19 050(+) | 3 500 | Nil | 1 000 |
| Parow | 37 950(+) | 32 150(+) | Nil | 120 |
| Pinelands | 11 500(-) | Not sure | Not sure | Not sure |
| Simon's Town | <u>5 550</u> | <u>75(-)</u> | <u>175</u> | <u>142(+)</u> |
| | <u>463 940</u> | <u>842 827</u> | <u>13 835</u> | <u>163 302</u> |

4. If the last known population statistics for Durbanville and Kraaifontein are added in together with the 1979 Municipal Year Book figures for Bellville and Pinelands, where no replies were given, then the approximate total population picture emerges as follows:

| <u>White</u> | <u>Coloured</u> | <u>Asian</u> | <u>Blacks</u> | <u>Grand Total</u> |
|--------------|-----------------|--------------|---------------|--------------------|
| 487 884 | 861 389 | 13 928 | 163 472 | 1 526 673 |

It is, however, necessary to treat these figures with reserve because they may not necessarily reflect the squatter population and also because it is believed that at the time of the survey it was general local authority practice to base population estimates on the 1970 census figures, and to adjust these figures annually by way of estimates.

Population Distribution

4. The Group Areas Act, 36 of 1966, and its predecessors have had a significant effect on population distribution in Greater Cape Town and this in turn, as will be shown in Chapter Four, has affected planning. In the questionnaire survey already referred to, the local authorities approached were requested to indicate racial land distribution: the results are given below in Table 5.

Population/.....

Population Distribution According to Group Areas : Table 5³

| Local Authority | White Group | | Coloured Group | | Asian Group | | Black Group | |
|-----------------------------------|-------------|------------|----------------|------------|-------------|------------|-------------|------------|
| | Area(ha) | Population | Area(ha) | Population | Area(ha) | Population | Area(ha) | Population |
| City of Cape Town | 21 138 | 257 340 | 8 233 | 501 000 | 219 | 6 000 | 380 | 31 500 |
| Divisional Council of the Cape | 7 910 | 26 040 | 2 878 | 191 500 | - | 5 130 | 367 | 24 670 |
| City of Bellville | 3 160 | 48 000 | 740 | 30 000 | - | - | - | - |
| Brackenfell | 1 600 | 6 500 | - | - | - | - | - | - |
| Fish Hoek | 6 407 | 7 440 | - | - | - | - | - | - |
| Goodwood | 1 800 | 28 710 | - | - | - | - | - | - |
| Kuils River | 867 | 6 800 | 289 | 6 200 | - | - | - | - |
| Milnerton | 5 698 | 19 050 | - | - | - | - | - | - |
| Parow | Not known | 37 950 | Not known | 32 150 | - | - | - | - |
| Pinelands | 567 | 12 500 | - | - | - | - | - | - |
| Simon's Town | 1 684 | 5 550 | - | - | - | - | - | - |
| | 50 831ha | 455 880 | 12 140ha | 760 850 | 219ha | 11 130 | 747ha | 56 170 |

5. However, these figures have to be adjusted for the following reasons:

- 5.1 In the area of the Divisional Council of the Cape there are 6 630 black persons resident at Hout Bay Harbour, Grassy Park and Elsies River; the asian community "shares" the group area at Elsies River; the coloured community "shares" the white zoning at Melkbosstrand; and the Divisional Council does not know the land areas of Edward Township and Wetton, which together are occupied by 330 whites.
- 5.2 At Parow, the municipality does not know the areas of the zonings for white and coloured ownership and occupation.
- 5.3 The Durbanville and Kraaifontein Municipalities did not respond to the questionnaire.

6. To solve these problems and to arrive at a final figure, the following assumptions have been made:

- 6.1 the residence of black persons in Hout Bay Harbour, Grassy Park and Elsies River is apparently for convenience as no proclaimed black areas can be found in these areas. Accordingly it would be more correct to add these 6 630 persons in under "authorised" black areas, as this is where they may lawfully live;
- 6.2 the asian community at Elsies River amounts to approximately one-fourteenth of the coloured population and have therefore been "allocated" 53 ha;
- 6.3 the "sharing" of Melkbosstrand by coloured people can be dealt with as in 6.1 supra;
- 6.4 the Edward Township and Wetton are not significant in relation to the total;
- 6.5 the Parow area of 2 350 ha has been divided between white and coloured according to their numerical strength, i.e., the coloured community is allocated 46.05% of the total area, namely, 1082,175ha, rounded off at 1082 ha;

6.6 Durbanville and Kraaifontein both have management committees and hence group areas. The municipal areas have been divided in proportion to the population groups based on figures in the 1979 Municipal Year Book.

7. The adjusted land distribution according to group areas is therefore as follows:

| White | | Coloured | | Asian | | Black | |
|----------|---------|----------|---------|----------|--------|----------|--------|
| Area(ha) | Pop. | Area(ha) | Pop. | Area(ha) | Pop. | Area(ha) | Pop. |
| 53 802 | 479 824 | 14 096 | 780 962 | 272 | 11 130 | 747 | 62 800 |

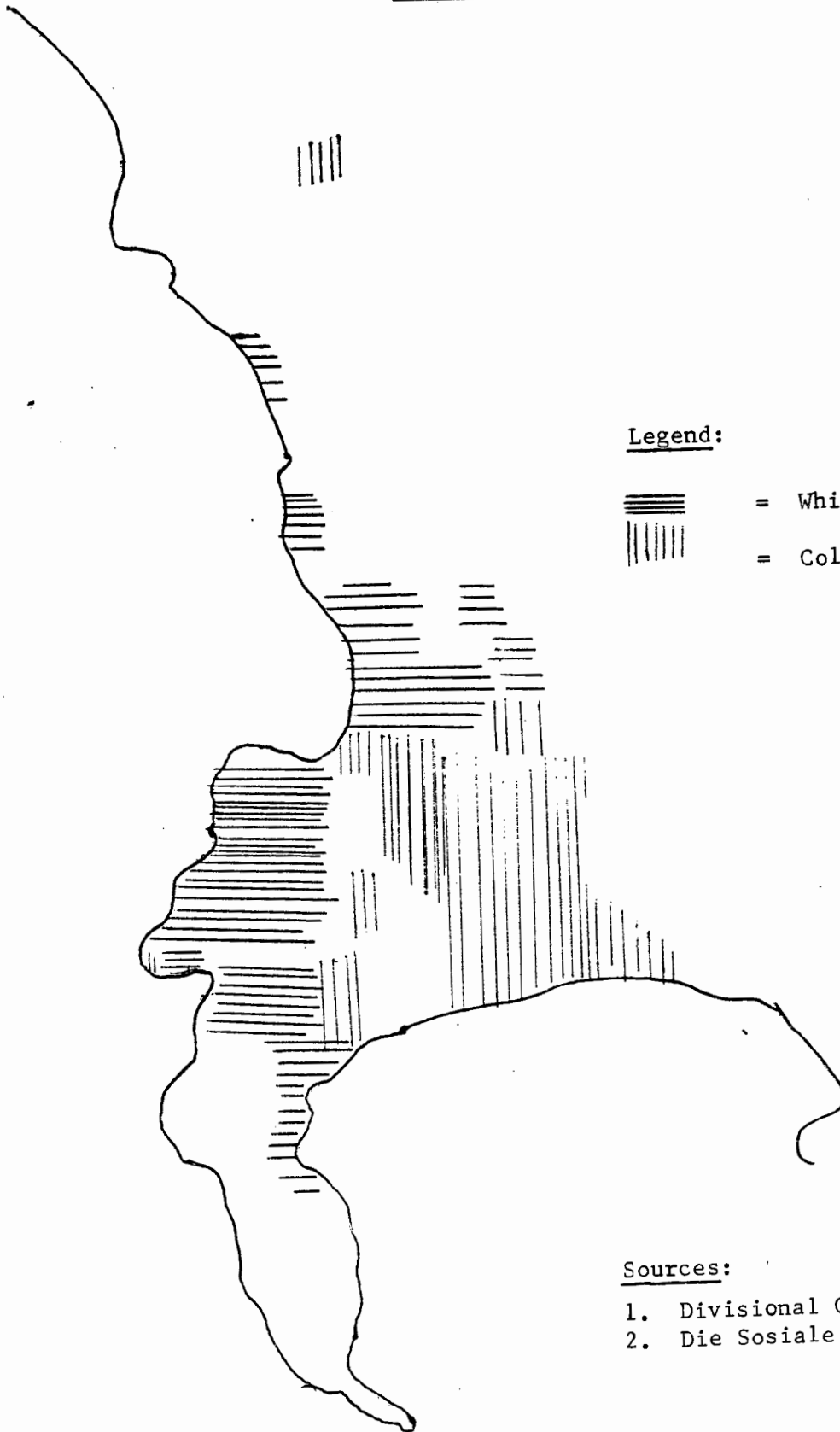
The most striking feature of these statistics is the distribution between the white group and all other races. The white group, at 479 824 persons amounts to 35,95% of the total population, while it has the ownership and occupation of 53 802 ha, or 78,07% of the total land area zoned as group areas. Conversely, all other races amounting to approximately 65% of the total population have only approximately 22% of the zoned land for their residential and other development. This fact must contain not only the seeds of social ills but also the seeds of present friction and future conflict. However, the white group areas also contain the major business and industrial areas: even if these are described as undetermined they are nevertheless effectively under white control.

8. The physical distribution of the population of Greater Cape Town is essentially white on either side of Table Mountain with a wide band of white development stretching north to Melkbosstrand and north-east to Kraaifontein, while coloured group areas are mainly confined to Grassy Park--Mitchells Plain in the south stretching north-east parallel with the white areas as far as Kuils River: there are isolated pockets of coloured development at Hout Bay Harbour and Ocean View, both to the South.⁴ The population distribution is shown on Map Three.

Past Growth

9. The Slater Two Report and the Cape Town Metropolitan Transport Plan both give figures for the growth of the population in the Cape Peninsula and the Ol Economic Region, respectively.

MAP THREE: Population Distribution



Legend:

- | | |
|-------|-----------------------|
| ===== | = White |
| | = Coloured and Indian |

Sources:

1. Divisional Council Records
2. Die Sosiale Atlas.

Population/.....

Population Growth in the Cape Peninsula : 1921-1960 : Table 6⁵

| <u>Census Year</u> | <u>White</u> | <u>Coloured</u> | <u>Black</u> | <u>Asian</u> |
|--------------------|--------------|-----------------|--------------|--------------|
| 1921 | 127 297 | 109 786 | 10 668 | 2 575 |
| 1936 | 183 657 | 171 009 | 16 485 | 3 856 |
| 1946 | 236 255 | 230 584 | 42 976 | 7 018 |
| 1951 | 267 440 | 299 312 | 60 274 | 8 343 |
| 1960 | 305 155 | 417 881 | 75 200 | 8 975 |

Population Growth in the Ol Economic Region : 1951-1970 : Table 7⁶

| <u>Year</u> | <u>White</u> | <u>Coloured</u> |
|-------------|--------------|-----------------|
| 1951 | 266 715 | 297 018 |
| 1960 | 305 155 | 417 881 |
| 1970 | 386 300 | 620 980 |

10. The Ol Economic Region consists of the municipal areas of Cape Town, Bellville, Brackenfell, Durbanville, Fish Hoek, Goodwood, Kraaifontein, Milnerton, Parow, Pinelands, Simon's Town and the Divisional Council of the Cape.⁷ The above statistics paint a picture of growing urbanisation.

Population Growth Projections.

11. There are two important population projections for the study area which are used by local government planners and these are the projections contained in the National Physical Development Plan for the Cape Peninsula and the Metropolitan Area Draft Guide Plan.

Population Growth Projections : National Physical Development Plan : Table 8⁸

| <u>Year</u> | <u>White</u> | <u>Coloured</u> | <u>Asian</u> |
|-------------|-----------------------|---------------------------|---------------------|
| 1970 | 453 158 | 738 173 | 11 555 |
| 2000* | 788 162 to 807 093 | 1 916 573 to 2 203 811 | 18 323 to 26 512 |

* The figures vary according to whether growth will take place in terms of the Regional Growth Rate or the National Growth Rate. For coloured and white persons the higher figure would result from growth in terms of the Regional Growth Rate, while for indian persons the reverse would be the case.

*Population/.....

* Population Growth Projections : Cape Metropolitan Area Guide
Plan : Table 9

| <u>Year</u> | <u>White</u> | <u>Coloured</u> | <u>Total</u> |
|-------------|--------------|-----------------|--------------|
| 1985 | 621 900 | 1 222 700 | 1 844 600 |
| 1990 | 677 900 | 1 410 900 | 2 088 800 |
| 1995 | 734 700 | 1 613 700 | 2 348 400 |
| 2000 | 792 400 | 1 828 200 | 2 620 600 |
| 2005 | 850 100 | 2 055 400 | 2 905 500 |
| 2010 | 909 600 | 2 293 200 | 3 202 800 |
| 2015 | 966 100 | 2 540 600 | 3 506 700 |
| 2020 | 1 020 400 | 2 794 800 | 3 815 200 |

* The area concerned is the magisterial districts of Bellville, Cape Town, Goodwood, Kuils River, Paarl, Simon's Town, Somerset West, Strand, Wellington and Wynberg.

12. As the magisterial districts of Paarl, Somerset West, Strand and Wellington are not part of the study area, a rough attempt to adjust these figures will be made by calculating the percentage which the populations of the towns with these names at present bear to the population of Greater Cape Town, and then adjusting Table 9 downwards for the years 1985, 1995, 2005 and 2020 by that population.

*Adjustment of Cape Metropolitan Guide Plan Population Projections :
Table 10¹⁰

| <u>Year</u> | <u>White</u> | <u>Coloured</u> | <u>Total</u> |
|-------------|--------------|-----------------|--------------|
| 1985 | 536 576 | 1 100 797 | 1 637 373 |
| 1995 | 633 900 | 1 452 815 | 2 086 715 |
| 2005 | 733 467 | 1 850 477 | 2 583 944 |
| 2020 | 880 402 | 2 516 159 | 3 396 561 |

* The figures in Table 10 do not claim to be accurate but are given solely in an attempt to try and obtain results more closely associated with the study area. It is admitted that population projections tend to be unreliable. Two separate calculations were done for the white and coloured groups.

13. It will be observed that the results for the year 2005 are reasonably near the projections for the year 2000 in the National Development Plan, which tends to indicate that the adjustment, although

rough,/.....

rough, is not entirely inaccurate. When dealing with population projections it has to be borne in mind that factors such as family planning, recession or boom, immigration or emigration, to name but a few can have a serious impact on what has been forecast. This indicates a need for review since municipal services need to be planned in terms of reasonably accurate population projections.

14. The local authorities surveyed were asked whether they had made population projections for their areas. The results are tabulated below:

Population Projections by Local Authorities in Greater Cape Town :
Table 11¹⁰

| <u>Name</u> | <u>Answer to question : Has a population projection been done for your area?</u> | | | | |
|--------------------------------|---|--------------|-----------------|--------------|--------------|
| City of Cape Town | No. | | | | |
| Divisional Council of the Cape | | <u>White</u> | <u>Coloured</u> | <u>Asian</u> | <u>Black</u> |
| | 1980-1985 | 1,9% | 2,6% | 2,45% | - |
| | 1985-1990 | 1,74% | 2,5% | 2,3% | - |
| | 1990 | 37 462 | 330 100 | 2 527 | 708 857 |
| | <u>Total 440 946.</u> | | | | |
| City of Bellville | No. --But the white population seems to double every ten years. There is no more land available for coloured expansion. | | | | |
| Brackenfell | No. | | | | |
| Fish Hoek | 10 000 whites by the year 2000. | | | | |
| Goodwood | No. | | | | |
| Kuils River | No --But population increase can be taken at a composite 6% per annum for white and coloured. | | | | |
| Milnerton | No. | | | | |
| Parow | No. | | | | |
| Pinelands | No. | | | | |
| Simon's Town | No. | | | | |

NATURAL/...

NATURAL RESOURCES

15. Population and economic strength, for example, are resources but what is meant by natural resources are minerals, the raw materials for an industry, etc. The natural resources available need not be confined to the actual area of Greater Cape Town but could also be found in the immediate hinterland from where they could be taken to the metropolitan area for processing.

Natural Resources of the Western Cape : Table 12¹¹

| <u>Type of Resource</u> | <u>Description or Use</u> |
|-------------------------|--|
| Minerals | Phosphate in the Saldanha area, silica sand in the Philippi area, as well as some deposits of lime gypsum and salt. Deposits of stone, brick clay and sand occur and are adequate to support the construction industry. |
| Agricultural Land | Good agricultural land occurs throughout the region and the products of agriculture form the basis of secondary industrial activities such as wine-making, canning and milling. The Philippi area is known as the Cape's "pantry". |
| Fish | There are pelagic fish, rock lobster and shell-fish but the fishing industry seems to have reached its peak. The extension of the Republic's fishing zone to 200 nautical miles holds out the hope for long-term improvements in the fishing industry. |
| Water | Because of the high rainfall in the winter rainfall area the region is assured of a dependable water supply. Plans are being made to augment the summer water supply. |

ECONOMIC STATUS

16. The economic status of the region is tied to what has been achieved in the economic field, but also covers the related aspects of future growth, job opportunities and unemployment. These issues will be discussed under separate sub-headings. However, future growth itself is largely related to planning and will be discussed under that heading in Chapter Four.

Zoning/...

Zoning and Actual Development

17. A starting point in assessing economic status is the physical allocation of land for different uses in terms of the applicable town planning schemes. Table 13 below deals with this aspect. A town planning scheme will normally contain a variety of uses, e.g. a section on residential uses will have provisions for single dwelling residential, general residential or flats, special residential, etc. However, for the purpose of the questionnaire survey these uses were generally grouped under single dwelling, residential, other residential, business, commercial and industrial.

Development according to Physical allocation of land in parts of Greater Cape Town to different uses : Table 13¹²

| <u>Local Authority</u> | <u>Single Dwelling Res. ha</u> | <u>Other Residential ha</u> | <u>Business ha</u> | <u>Commercial ha</u> | <u>Industrial ha</u> |
|--------------------------------|--|-----------------------------|--------------------|----------------------|----------------------|
| City of Cape Town | Information not supplied. | | | | 730,1 |
| Divisional Council of the Cape | Information not available. | | | | |
| City of Bellville | 1 500 | 40 | 60 ^ø | | 450 |
| Brackenfell | Information not available. | | | | |
| Fish Hoek* | 1 304 | 124 | 9,15 | Nil | Nil |
| Goodwood | 645 | 74 | 20 | Nil | 97 |
| Kuils River | 281,14 | 23,12 | 11,95 | Nil | 36,40 |
| Milnerton | Not stated. | | | | |
| Parow | 1 200 | 44,8 | 30 ^ø | | 180 |
| Pinelands | Not stated | | | | |
| Simon's Town | <u>Figures not stated : form states existing usage frozen.</u> | | | | |
| Totals | <u>4 930,14</u> | <u>345,92</u> | <u>191,1</u> | | <u>1 493,5</u> |

*These/...

* These figures represent sites and not hectare but have been converted (see below).

Ø These municipalities showed business and commercial as combined figures.

18. The inadequate information does not make it possible to give a full picture of land allocation use according to town planning schemes as seven local authorities either did not reply or could not supply this information. The Fish Hoek figures relate to sites and not to hectare but based on assumptions about the size of various types of residential and business sites the Fish Hoek figures have been converted as shown in Table 13.

19. Most of the local authorities who responded also gave an indication of the extent of zoned land still to be developed. Although the information obtained is not sufficiently complete so as to be used as an accurate base in measuring the amount of potential development in the region, the figures are given in Table 14 for the sake of interest.

Zoned land still available for development in parts of Greater Cape Town : Table 14¹³

| <u>Local Authority</u> | <u>Single Dwelling Res.</u> ha | <u>Other Residential</u> ha | <u>Business</u> ha | <u>Commercial</u> ha | <u>Industrial</u> ha |
|------------------------|-----------------------------------|--------------------------------|-----------------------|-------------------------|-------------------------|
| City of Cape Town | Information not supplied | | | | 209,5 |
| City of Bellville Ø | 1 200 | 15 | 40 | | 261 |
| Fish Hoek * | 39,5 | 16 | 2,1 | Nil | Nil |
| Goodwood | 194 | 15 | 2 | Nil | Nil |
| Kuils River | 82,2 | 6,68 | 1,31 | Nil | Nil |
| Parow Ø | 1 000 | 30 | 22 | | 120 |
| Simon's Town Øx | 500 | | 11 | | 30 |
| | 3 015,7 ha | 82,68 ha | 5,41 ha | Nil 78,41 ha | 620,5 ha |

* The Fish Hoek figures have been converted to hectare on the basis of the assumptions explained in paragraph 18.

Ø These municipalities gave a combined total for business and commercial zonings: the total of 78,41 ha in respect of these categories is the total for all business and commercial zonings.

x The/...

- x The Simon's Town Municipality also has 50 ha available for dockyard development.

20. A part of the questionnaire survey to which some local authorities responded relates to the number of properties for residential, business, commercial and industrial properties in their respective areas. The replies provided are given in Table 15 below.

Number of Residential, Business, Commercial and Industrial Properties in parts of Greater Cape Town : Table 15¹⁴

| <u>Local Authority</u> | <u>Single Dwelling Res.</u> | <u>Other Residential</u> | <u>Business</u> | <u>Commercial</u> | <u>Industrial</u> |
|------------------------|-----------------------------|--------------------------|-----------------|-------------------|-------------------|
| City of Cape Town | Information not supplied | | | | |
| City of Bellville ø | 14 838 erven | 3 000 units | 600 enterprises | | 400 erven |
| Brackenfell | 1 700 | 3 | 107 | 80 | 27 |
| Fish Hoek | 1 818 | 198 | 62 | Nil | Nil |
| Goodwood | 7 149 | 323 | 380 | Nil | 13 |
| Kuils River | 2 230 | 15 | 52 | 10 | 23 |
| Parow ø | 11 952 | 275 | 234 | | 320 |
| Pinelands | 2 650 | 619 | Not known | | Nil |
| Simon's Town | 1 080 | 137 | 58 | 10 | 2 |

ø These two municipalities gave a combined total for business and commercial.

Diversity and Types of Private Enterprise

21. The 1979 Municipal Year Book contains more definite information on the number of business concerns but unfortunately the City of Cape Town entry is blank and the Divisional Council of the Cape does not appear in the relevant schedule. Nonetheless the schedule is an indicator of economic status.

Number/...

Number of Business Concerns in parts of Greater Cape Town : Table 16¹⁵

| <u>Local Authority</u> | <u>Heavy Industry</u> | <u>Light Industry</u> | <u>Commercial (Including Banks)</u> |
|------------------------|-----------------------|-----------------------|-------------------------------------|
| City of Bellville | Nil | 190 | 1 165 |
| Brackenfell | 1 | 26 | 80 |
| Durbanville | Nil | 6 | 186 |
| Fish Hoek | Nil | Nil | 139 |
| Goodwood | 6 | 54 | 530 |
| Kraaifontein | 7 | 179 | 704 |
| Kuils River | 16 | 3 | 85 |
| Milnerton | 15 | 46 | 127 |
| Parow | 50 | 150 | 700 |
| Pinelands | Nil | Nil | 57 |
| Simon's Town | 1 | 1 | 67 |
| | <u>96</u> | <u>655</u> | <u>3 840</u> |

City of Cape Town
and the Divisional
Council of the Cape

2 626¹⁶

22. The figure relating to industry given beneath in Table 16 represent an estimate of the combined industries for the areas of the Cape Town City Council and the Divisional Council of the Cape; the source for this estimate is given in footnote sixteen. Table 16 illustrates the development which has taken place in the municipalities stretching to the north of Cape Town, i.e. excluding the City of Cape Town, the Divisional Council of the Cape and other "southern" municipalities, the eight northern municipalities account for 98,96% of the heavy industry, 98,86% of the light industry and 93,15% of the commercial activity, north of Cape Town. If the total heavy and light industry for the eleven municipalities are combined--751--and compared with that in the eight northern municipalities the percentage becomes 99,73%. However, this is only a relative view since the estimated 2 626 industries for the combined Cape Town/Divisional Council areas reduce the combined industrial development for the eleven

municipalities/...

municipalities and amounts to 77,76% of the total of 3 377 industries in the region. As the Divisional Council of the Cape only has three industrial areas within its area of jurisdiction--Atlantis, Philippi and Boquinar--it must be accepted that the City of Cape Town is the industrial core of the metropolitan area.

23. As far as the types of enterprise to be found in the metropolitan area are concerned, Table 17 gives an outline of the types of manufacture in the Cape Metropolitan area in relation to employment.

Types of Manufacturing activity in the Cape Metropolitan Area in relation to Employment, for the years 1972 and 1976 : Table 17¹⁷

| <u>Activity</u> | <u>Year</u> | <u>Total Employees</u> | <u>As % of industry in the Western Cape</u> |
|--|-------------|------------------------|---|
| Food | 1972 | 19 801 | 72,3 |
| | 1976 | 20 531 | 73,1 |
| Beverages and tobacco | 1972 | 8 413 | 90,2 |
| | 1976 | 8 456 | 88,3 |
| Textiles | 1972 | 11 928 | 88,0 |
| | 1976 | 13 590 | 90,0 |
| Clothing | 1972 | 40 044 | 99,9 |
| | 1976 | 46 080 | 100,0 |
| Leather and leather products | 1972 | 3 036 | 100,0 |
| | 1976 | 3 741 | 100,0 |
| Footwear | 1972 | 5 357 | 99,8 |
| | 1976 | 5 951 | 98,7 |
| Wood and wood products | 1972 | 3 823 | 87,6 |
| | 1976 | 3 873 | 85,2 |
| Furniture | 1972 | 4 216 | 96,5 |
| | 1976 | 5 163 | 96,9 |
| Paper and paper products | 1972 | 6 303 | 97,9 |
| | 1976 | 5 388 | 99,0 |
| Printing | 1972 | 9 490 | 98,0 |
| | 1976 | 11 177 | 98,8 |
| Chemicals, Rubber and plastic products | 1972 | 12 430 | 96,8 |
| | 1976 | 15 501 | 97,4 |
| Non-metallic mineral products | 1972 | 9 003 | 89,2 |
| | 1976 | 9 807 | 88,2 |
| Basic iron and steel products | 1972 | 829 | 84,8 |
| | 1976 | 1 251 | 100,0 |

Basic/...

| <u>Activity</u> | <u>Year</u> | <u>Total Employees</u> | <u>As % of industry in the Western Cape</u> |
|----------------------------|-------------|------------------------|---|
| Basic non-ferrous products | 1972 | 405 | 100,0 |
| | 1976 | 285 | 100,0 |
| Metal products | 1972 | 12 528 | 98,7 |
| | 1976 | 13 237 | 96,4 |
| Machinery | 1972 | 3 474 | 95,5 |
| | 1976 | 3 939 | 96,5 |
| Electrical machinery | 1972 | 3 235 | 100,0 |
| | 1976 | 4 853 | 99,6 |
| Transport equipment | 1972 | 6 699 | 98,3 |
| | 1976 | 8 196 | 98,0 |
| Sundries | 1972 | 3 524 | 92,1 |
| | 1976 | <u>4 073</u> | <u>96,4</u> |
| Totals | 1972 | 164 538 | 92,5 |
| | 1976 | 185 092 | 93,0 |

24. The above Table illustrates the importance of the Metropolitan Area to the Western Cape as a region. In the case of the categories with the highest employment, i.e. over 10 000, such as textiles, clothing, printing and metal products, the Metropolitan Area's percentage share varies between 90% and 100%. The total for 1976 shows that the Metropolitan Area accounted for 93% of all employment in manufacturing in the Western Cape as a region. Table 18 gives a structural comparison of the Gross Geographic Product or GGP for Cape Town on a sectoral basis with the metropolitan areas of the Republic as a whole, for the year 1972.

A Structural Comparison of the Gross Geographic Product for Cape Town on a Sectoral Basis with the metropolitan areas in the Republic as a whole, for 1972 : Table 18¹⁸

| <u>Activity</u> | <u>Cape Town : Percentage GGP</u> | <u>Republic : Percentage GGP</u> |
|-----------------|---------------------------------------|--------------------------------------|
| Agriculture | 3,01 | 9,20 |
| Manufacturing | 25,44 | 25,56 |
| Electricity | 3,01 | 3,21 |
| Construction | 4,78 | 5,13 |
| Trade | 18,30 | 16,45 |
| Transport | 9,86 | 9,81 |
| Finance | 17,47 | 15,86 |
| Services | 2,83 | 2,21 |

25. The report A Spatial Development Strategy for the Western Cape also gives a GGP structural analysis of the Western Cape and the Republic as a whole, as shown in the next Table. These figures were prepared by the Office of the Economic Adviser in 1977, for the year 1975.

A GGP Structural analysis between the Western Cape and the Republic as a whole : Table 19¹⁹

| <u>Sector</u> | <u>Republic as a whole</u> | <u>Western Cape</u> |
|---|----------------------------|---------------------|
| Agriculture | 7,9 | 9,3 |
| Mining | 13,0 | 0,2 |
| Manufacturing, construction and electricity | 31,2 | 32,9 |
| Transport, storage and communications | 9,0 | 9,8 |
| Commerce | 13,3 | 15,0 |
| Finance | 10,6 | 12,7 |
| General Government | 10,2 | 13,5 |
| Other producers | <u>4,8</u> | <u>6,6</u> |
| | <u>100,0</u> | <u>100,0</u> |

26. According to the National Physical Development Plan, the Gross Geographic Product at factor income for 1968 for the Pretoria--Witwatersrand--Vereeniging, Cape Peninsula, Port Elizabeth/Uitenhage, and the Durban--Pietermaritzburg metropolitan areas was 41,37%, 11,95%, 3,94% and 10,64%, respectively. At this stage, the picture in Greater Cape Town is one of mixed industrial and business activity with the Cape Peninsula emerging clearly as the economic core of the Western Cape, and an important component of the economic infrastructure of South Africa. However, this picture of apparent prosperity must be measured against employment and unemployment, which follows.

Employment and Unemployment

27. The paucity of natural resources, coupled with a rapid population growth, pose severe problems for municipal administration in the Greater Cape Town area, particularly in the field of finance. These problems will be discussed under appropriate headings in Chapter Four but in essence a lowered earning capacity tied to large families

leads/....

leads to social ills such as alcohol abuse and crime. The correction of these conditions lies to a large extent in the hands of the Central Government because the remedial measures will involve education and technical training coupled with the creation of job opportunities and the opportunity to advance socially and economically. As will become more clear under the heading of planning in Chapter Four, the creation of vast areas of public housing exclusively for coloured people has created conditions which not only entrench the conditions described, but also keep this section of the community out of the vitalising mainstream of economic and social growth to the detriment of the metropolis. Because of the lack of co-ordination across the three tiers of government, the tendency at municipal level, bearing in mind the limited powers and fragmentation of municipal government in the region, is to treat the problem on the basis of subsidising coloured areas. This policy in turn creates a climate of dependence and stifles progress towards social and economic upliftment. The entrenchment of the dependence on subsidies also has the effect of creating racial attitudes: judgment and fault-finding on the part of the whites; and anger, frustration and a lack of appreciation for the assistance given, on the part of the coloureds.

28. The background summary just given is a necessary prologue to a sketch of the employment situation in the Greater Cape Town area. As a first step in this direction it is necessary to look at the national situation in respect of the four major metropolitan areas in comparison with the Republic as a whole, as given in Table 20 below. Table 20 is followed by Table 21 which gives the labour distribution for the Western Cape.

Geographical Distribution of the economically active population for the four major metropolitan areas in comparison with the Republic as a whole, 1970 : Table 20²⁰

| <u>Area</u> | <u>Total</u> (1000) | <u>Whites</u> (1000) | <u>Coloured</u> (1000) | <u>Asians</u> (1000) |
|------------------------------------|------------------------|-------------------------|---------------------------|-------------------------|
| Republic of S.A. | 8 114 | 1 509 | 716 | 182 |
| Pretoria-Witwatersrand-Vereeniging | 1 894 | 615 | 51 | 21 |
| Port Elizabeth-Uitenhage | 212 | 66 | 44 | 2 |
| Cape Peninsula | 467 | 164 | 233 | 3 |
| Durban-Pinetown | 397 | 114 | 14 | 99 |

Distribution/...

Distribution of the use of labour (demand) in the Western Cape according to industry and population group : 1970 and 1975 : Table 21²¹

| | Whites | | Coloureds | |
|---------------------------------------|---------|---------|-----------|---------|
| | 1970 | 1975 | 1970 | 1975 |
| Agriculture | 10 276 | 9 433 | 50 527 | 50 285 |
| Mining | 204 | 213 | 927 | 116 |
| Manufacturing industry | 32 966 | 32 349 | 111 335 | 134 990 |
| Electricity, gas and water | 911 | 1 409 | 789 | 1 161 |
| Construction | 11 321 | 12 047 | 42 350 | 44 283 |
| Commerce and catering | 46 011 | 51 663 | 46 774 | 55 579 |
| Transport, storage and communications | 27 527 | 28 836 | 16 978 | 18 802 |
| Financing, etc. | 23 751 | 31 143 | 4 333 | 5 775 |
| Community and personal services | 12 704 | 15 759 | 7 517 | 9 206 |
| General government | 44 691 | 50 555 | 43 222 | 58 008 |
| Household services | - | - | 69 179 | 73 113 |
| Totals | 210 362 | 233 407 | 393 931 | 452 318 |

29. Remaining in the national context, Table 22 shows the projections for manpower demand for 1975 and 1981, and Table 23, for the same years, gives the estimated demand for artisans and technically skilled persons.

Projections of the percentage distribution of the demand for manpower in the Republic by occupation and race-group : 1975 and 1981 : Table 22²²

| | Whites | | Coloureds | |
|---------------------------------------|--------|-------|-----------|-------|
| | 1975 | 1981 | 1975 | 1981 |
| Professional | 18,1 | 19,6 | 6,2 | 6,1 |
| Administrative and managerial workers | 8,3 | 8,8 | 0,2 | 0,3 |
| Clerical and related workers | 27,1 | 29,2 | 7,3 | 10,3 |
| Sales workers | 9,7 | 9,7 | 4,1 | 5,5 |
| Transport workers | 4,5 | 4,1 | 5,3 | 5,3 |
| Service workers | 5,6 | 5,4 | 10,2 | 14,7 |
| Production workers | 8,4 | 6,7 | 34,4 | 28,7 |
| Foremen and supervisors | 3,0 | 2,8 | 0,9 | 1,0 |
| Artisans and apprentices | 14,6 | 13,3 | 8,5 | 9,0 |
| Labourers | 0,7 | 0,4 | 22,9 | 19,1 |
| | 100,0 | 100,0 | 100,0 | 100,0 |

Estimates/....

Estimates of the demand for artisans and technically skilled workers
in the Republic : 1975 and 1981 : Table 23²³

| | Number of persons | | Average |
|--------------------------|-------------------|---------|---------------|
| | 1975 | 1981 | increase p.a. |
| <u>Whites</u> | | | |
| Production workers | 120 400 | 128 000 | 1 300 |
| Foremen and supervisors | 43 300 | 52 700 | 1 600 |
| Artisans and apprentices | 223 200 | 247 700 | 4 400 |
| <u>Coloureds</u> | | | |
| Production workers | 175 600 | 225 900 | 8 400 |
| Foremen and supervisors | 5 800 | 8 100 | 400 |
| Artisans and apprentices | 47 600 | 70 500 | 3 800 |

30. The Economic Development Programme, which is concerned with economic growth and development, also deals with the problem of unemployment and states that unemployment as such is not the only problem: there are also hidden under-employment where a person is too highly qualified for the work being done, and visible under-employment where a person works fewer hours than he would voluntarily have worked. Under-employment may lead to a shortage of employment opportunities and partly to a low level of economic participation among the population of the area, i.e. there would be fewer breadwinners and a consequential lower standard of living.²⁴ The essential cause of unemployment, namely, a more rapid growth in the labour available than the demand for labour, is affected by cyclical conditions in the economy.²⁵ The authors of the Economic Development Programme reached certain conclusions on unemployment, and the main points are summarised below:

- 30.1 unemployment remains a serious problem throughout South Africa;
- 30.2 increasing employment in urban areas will not necessarily lead to a lower unemployment rate in these areas because of immigration from rural areas;
- 30.3 unemployment creates social problems, particularly as more than half of the unemployed blacks and coloureds are younger than thirty years. About half of the unemployed had been so for more than six months and the frustrations generated by the relative inability of the unemployed to improve their position should not be underestimated;

30.4/...

30.4 if the training of black and coloured workers could be improved, as well as their mobility between sections, occupations and regions, a lower unemployment rate could be expected;

30.5 the increasing tendency towards capital intensive rather than labour intensive production methods restricts the growth of employment and increases unemployment.²⁶

31. Tables 24, 25 and 26 below show, respectively, the extent of unemployment in South Africa, coloured unemployment according to age groups for 1978-1979, and the registered unemployed in various areas.

The Extent of Unemployment in South Africa : Table 24²⁷

| Period | Aggregate unemployment as % of work force | Unemployment Rates | | Economic Growth Rate p.a. % | Employment Growth Rate p.a. % |
|--------|--|--------------------|---------------|--------------------------------------|--|
| | | White % | Coloured % | | |
| 1960 | 7,3 | (0,3 | (1,6 | 6 | 3,8 |
| 1970 | 3,0 | (| (| | |
| 1977 | 10,6 | (3,6 | (10,5 | 3,8 | 1,5 |
| 1978 | 9,5 | | | | |

Coloured Unemployment According to Age Groups, 1978-1979 : Table 25²⁸

| Age Group | Male | Female | Total |
|-----------|------------|------------|------------|
| | % | % | % |
| 16-19 | 30 | 27 | 28 |
| 20-29 | 37 | 35 | 36 |
| 30-39 | 14 | 23 | 19 |
| 40-49 | 12 | 12 | 12 |
| 50-59 | 5 | 3 | 4 |
| 60-64 | 2 | - | 1 |
| | <u>100</u> | <u>100</u> | <u>100</u> |

Unemployment/.....

Unemployment as at 31 March, 1980 : Table 26²⁹

| <u>Labour Inspectorate Area</u> | <u>Registered Unemployed</u> | | |
|-------------------------------------|------------------------------|-----------------|---------------|
| | <u>White</u> | <u>Coloured</u> | <u>Total</u> |
| Johannesburg | 3 252 | 1 751 | 5 003 |
| Cape Town | 1 577 | 4 579 | 6 156 |
| Durban | 2 097 | 1 127 | 3 224 |
| Pretoria | 905 | 156 | 1 061 |
| Port Elizabeth | 899 | 2 181 | 3 080 |
| Bloemfontein | 411 | 177 | 588 |
| East London | 458 | 235 | 693 |
| Kimberley | 198 | 847 | 1 045 |
| George | 114 | 322 | 436 |
| | <u>9 911</u> | <u>11 375</u> | <u>21 286</u> |

32. The emergent picture of the economic status of the Greater Cape Town area is one of apparent prosperity as the area is the metropolitan centre for a large hinterland but this picture is not without its warning signs of actual or potential dangers and problems. These areas of concern are briefly referred to below:

- 32.1 the coloured population of the area is growing at a relatively fast rate and will continue to grow at a rate far exceeding the white rate for the foreseeable future--see Table 10;
- 32.2 the coloured and white populations are separated into separate residential areas unequally divided, with the coloured being given less land than the whites--see Table 5;
- 32.3 the area is not well-endowed with natural resources--see paragraph 15;
- 32.4 the major employers in the private sector are commercial undertakings and light industry--see Tables 16 and 17;
- 32.5 unemployment will remain a social and financial problem in the area for some time to come, with 83% of the coloured unemployed under the age of forty years being a guide to the frustration and social ills likely to affect the peaceful and harmonious development of the area--see paragraph 30 and Tables 25 and 26.

INCOME

33. The earning capacity, or the extent to which the different racial groups participate in the wealth generated by the region, is a factor complementing the use of land and the growth of business and industry. As an introduction, Tables 27, 28 and 29 will deal with income tax collected throughout the Republic during 1978/1979, the income categories of taxpayers and the tax contributions by the various race groups in the Cape Province.

Total Income Tax and Loan Levy collected during the Financial Year 1978/1979 : Table 27³⁰

| <u>Sector</u> | <u>Income Tax collected</u> |
|------------------------|-----------------------------|
| Individuals | R 1 974 043 948 |
| Gold Mining Companies | R 666 051 025 |
| Other Mining Companies | R 127 418 424 |
| Other Companies | R 1 549 542 985 |
| | <hr/> |
| Total | R 4 317 056 382 |
| Interest | R 6 825 512 |
| | <hr/> |
| Total | R 4 323 881 894 |
| | <hr/> |
| Total Loan Levy | R 518 727 735 |

Income/...

Income categories of taxpayers and the percentage tax assessed in the 1978 tax year : Table 28³¹

| <u>Income Category</u> | <u>Number of individual taxpayers per category</u> | <u>Tax assessed in income category as percentage of total tax assessed</u> |
|------------------------|--|--|
| LOSS | 15 731 | - |
| 1 - 1 000 | 187 446 | 0,05 |
| 100 - 2 000 | 186 474 | 0,61 |
| 2 001 - 3 000 | 223 338 | 1,68 |
| 3 001 - 4 000 | 179 841 | 2,31 |
| 4 001 - 5 000 | 150 055 | 2,70 |
| 5 001 - 6 000 | 133 976 | 3,31 |
| 6 001 - 7 000 | 124 630 | 4,10 |
| 7 001 - 8 000 | 118 405 | 4,97 |
| 8 001 - 9 000 | 111 568 | 5,84 |
| 9 001 - 10 000 | 96 998 | 6,31 |
| 10 001 - 12 000 | 145 321 | 12,56 |
| 12 001 - 14 000 | 89 800 | 10,93 |
| 14 001 - 16 000 | 51 061 | 8,35 |
| 16 001 - 18 000 | 30 619 | 6,58 |
| 18 001 - 20 000 | 19 928 | 5,25 |
| 20 001 - 22 000 | 12 544 | 4,00 |
| 22 001 - 24 000 | 8 256 | 3,11 |
| 24 001 - 26 000 | 5 675 | 2,49 |
| 26 001 - 28 000 | 4 042 | 2,03 |
| 28 001 - 30 000 | 2 834 | 1,61 |
| 30 001 - 40 000 | 6 266 | 4,55 |
| 40 001 - 50 000 | 2 014 | 2,15 |
| 50 001 - 80 000 | 1 524 | 2,43 |
| 80 001 - 100 000 | 260 | 0,65 |
| 100 001 - 150 000 | 197 | 0,65 |
| 150 001 and over | 102 | 0,78 |
| | <u>1 908 906</u> | <u>100,00</u> |

The Number of Taxpayers in the Cape Province liable for Normal Income Tax and the amount assessed for the 1978 Tax Year : Table 29³²

| <u>Group</u> | <u>Number of Taxpayers liable for Normal Income Tax</u> | <u>Amount assessed R1 000</u> |
|--------------|---|-------------------------------|
| Whites | 438 522 | 406 407 |
| Coloureds | 202 866 | 29 208 |
| Asians | 6 204 | 2 780 |
| | <u>647 592</u> | <u>438 395</u> |

34. The foregoing Tables reveal the following:

- 34.1 the largest contributing group to the payment of income tax is the individual;
- 34.2 the maximum income a person could earn in 1978 to be able to lease or buy a government subsidised house was R540,00 per month, or R6 480 per annum--these limits will be more fully discussed in Chapter Five. Of the taxpayers in Table 28, the number who earned less than R7 000 per annum was 1 201 491, and they contributed only 14,76% of all tax paid. A large number of the people in this category will undoubtedly be coloured;
- 34.3 the white taxpayers in the Cape Province amount to 67,72% of all taxpayers in the Province, but they pay 92,70% of the total normal tax. The coloured on the other hand, comprises 31,33% of the total number of taxpayers but only contributes 6,66% of the total normal tax;
- 34.4 given the above facts it becomes easier to appreciate why the Theron Commission found that whites tend to take what amounts to a condemnatory attitude to the poorer section of society in an attempt to keep the tax burden down.^{32A}

35. In governmental circles, including the municipal level, it is generally accepted that the coloured person is economically disadvantaged in comparison with his white counterpart. This view is factually tested in the five Tables given below.

Distribution/...

Distribution of Household Incomes in the Cape Peninsula in 1970 and 1975 (estimated) : Table 30³³

| <u>Income categories</u> <u>1970</u> | <u>Accumulated</u> <u>percentages</u> | <u>Income categories</u> <u>1975</u> |
|---|--|---|
| 1 - 250 | 0,5 | 1 - 450 |
| 251 - 500 | 5,8 | 451 - 900 |
| 501 - 750 | 17,4 | 901 - 1 350 |
| 751 - 1 000 | 30,8 | 1 351 - 1 800 |
| 1 000 - 1 250 | 43,6 | 1 801 - 2 250 |
| 1 251 - 1 500 | 54,9 | 2 251 - 2 700 |
| 1 501 - 1 750 | 65,8 | 2 701 - 3 150 |
| 1 751 - 2 000 | 74,0 | 3 151 - 3 600 |
| 2 001 - 2 250 | 78,5 | 3 601 - 4 050 |
| 2 251 - 2 500 | 85,3 | 4 051 - 4 500 |
| 2 501 - 3 000 | 92,3 | 4 501 - 5 400 |
| 3 001 - 4 000 | 97,8 | 5 401 - 7 200 |
| 4 001 - 5 000 | 99,0 | 7 201 - 9 000 |
| 5 001 - 500 000 | 100,0 | 9 001 - 100 000 |

Distribution of Households into Income Groups for 1975 : Table 31³⁴

| <u>Income Group</u> | <u>Percentage of</u> <u>White Households</u> | <u>Percentage of</u> <u>Coloured Households</u> |
|---------------------|---|--|
| R 0 - R2 099 | 10% | 33% |
| R 2 100 - R3 999 | 14% | 38% |
| R 4 000 - R6 999 | 28% | 22% |
| R 7 000 - R9 999 | 25% |) 7% |
| R10 000 plus | 23% |) |

Expected Average and Median Household Income for the Metropolitan Area in Rands per annum : Table 32³⁵

| <u>Year</u> | <u>White</u> | | <u>Coloured</u> | |
|---|----------------|---------------|-----------------|---------------|
| | <u>Average</u> | <u>Median</u> | <u>Average</u> | <u>Median</u> |
| | <u>R</u> | <u>R</u> | <u>R</u> | <u>R</u> |
| 1975 | 7 867 | 6 800 | 3 392 | 2 900 |
| 1985 | 9 591 | 8 200 | 3 724 | 3 600 |
| 2000 | 12 678 | 10 900 | 5 389 | 5 100 |
| Annual growth rate - 1975 to 2000 | 1,9% | 1,9% | 1,9% | 2,3% |

Per/.....

Per Capita Incomes in the Western Cape by Economic Region for 1970 :
Table 33³⁶

| Economic Region | Whites | | Coloureds | |
|--------------------|-----------------------|---------------------|-----------------------|---------------------|
| | Per Capita Incomes | Total Population | Per Capita Incomes | Total Population |
| | R | | | |
| 01 | R1 212 | 380 000 | R269 | 609 000 |
| 04 | R 831 | 27 000 | R126 | 73 000 |
| 05 | R 990 | 110 000 | R150 | 258 000 |
| 06 | R 790 | 34 000 | R107 | 87 000 |

Direct and Indirect Taxes paid by Coloureds for the 1972/1973
period : Table 34³⁷

| Item | Amount (R-million) | Amount appropriated for the C.P.R.C. Budget (R-million) |
|-------------------------|-----------------------|---|
| *Direct Taxes | 9,1 | C.P.R. appro- |
| Excise duty | 19,1 | priation 88,7 |
| Customs duty | 6,6 | |
| Sales tax | 6,0 | |
| Rates (local authority) | 3,4 | |
| Miscellaneous | 2,8 | |
| *Sub-total | 47,0 | |
| Amount of subsidy | 41,7 | |
| Totals | 88,7 | 88,7 |

* If local authority rates are omitted, the coloured contribution to the total direct and indirect tax revenue for 1972/1973 amounting to R2 916 million, was approximately 1,5%.

36. The five Tables given above, read with the preceding tables relating to taxes paid and the views of the Rossouw and Botha Committees referred to in Chapter Two give rise to the following conclusions:

36.1 the numerically superior coloured population, even where employment is obtained, does not earn enough income in terms of taxes paid to make a significant contribution towards meeting the infrastructural costs of the Republic;

36.2/.....

- 36.2 on the contrary, it is necessary to subsidise the services already rendered to the coloured population group;
- 36.3 the division of the Republic's population into strictly divided and separated race groups makes the economically or financially disadvantaged status of the coloured group more obvious;
- 36.4 for the foreseeable future the differences between the income earned by whites and coloureds will continue, thereby affecting the social structure in general, and in Greater Cape Town in particular;
- 36.5 some but not all of the more prosperous whites resent having to "subsidise" their coloured counterparts.

37. On this last point, viz., white resentment, the Theron Commission comments pertinently that it is a major misconception among whites about coloured poverty that each individual must shoulder the blame for his poverty. It is typical of a prosperous middle-class society, with its success ethic and individualistic orientation, to blame poverty on flaws and shortcomings in the character and personality of the impoverished individual. These shortcomings have been in turn ascribed to religious, moral and biological factors. The religious factor, which comes from the Puritan ethic, is that poverty is a punishment visited upon the children for the sins of their fathers; this view has found little explicit support in South Africa. The moral factor, which receives support among both the white and coloured middle classes ascribes poverty to moral shortcomings and lack of personal integrity and stamina, and in South Africa, special emphasis is placed on individual initiative and achievement. The biological factor assumes that the lower-intellectual endowment of the poor and/or their other physical shortcomings are to be ascribed to hereditary factors which naturally make them "losers"; in South Africa this explanation has acquired a colour connotation and is often used as a cloak for colour prejudices.³⁸

EDUCATION

38. Education can be regarded as an indicator of the extent to which a community has developed but in more practical terms, it is also a measure of a particular community's prospects for access to economic opportunity and advancement. The information which follows on education does not pretend to assess the relative qualities of white and coloured education since this is a specialised field on its own. All that will be done in this sub-section is to record the facts of the education, educational opportunities and the costs involved in respect of the white and coloured communities. As a first step to examining education it is necessary to look at the composition of the population in terms of age groups. Tables 35, 36 and 37 deal with age composition nationally and regionally, as well as general levels of education.

Age Composition of the Coloured and White Population, 1975 : Table 35³⁹

| Age Group | Coloureds | | | Whites | | |
|-----------|-----------|-------------|-------------------------|-----------|-------------|-------------------------|
| | Number | Per-centage | Cumula-tive per-centage | Number | Per-centage | Cumula-tive per-centage |
| 0- 4 | 413 100 | 17,0 | 17,0 | 468 350 | 11,0 | 11,0 |
| 5- 9 | 357 740 | 14,7 | 51,7 | 431 690 | 10,1 | 21,1 |
| 10-14 | 322 710 | 13,3 | 45,0 | 401 960 | 9,4 | 30,5 |
| 15-19 | 273 470 | 11,2 | 56,2 | 387 020 | 9,1 | 39,6 |
| 20-24 | 219 270 | 9,0 | 65,2 | 356 040 | 8,3 | 47,9 |
| 25-29 | 175 940 | 7,2 | 72,4 | 352 230 | 8,2 | 56,1 |
| 30-34 | 138 250 | 5,7 | 78,1 | 324 610 | 7,6 | 63,7 |
| 35-39 | 123 450 | 5,1 | 83,2 | 276 700 | 6,5 | 70,2 |
| 40-44 | 103 740 | 4,3 | 87,5 | 233 480 | 5,5 | 75,7 |
| 45-49 | 81 200 | 3,3 | 90,8 | 216 890 | 5,0 | 80,7 |
| 50-54 | 62 900 | 2,6 | 93,4 | 196 880 | 4,6 | 85,3 |
| 55-59 | 50 630 | 2,1 | 95,5 | 171 210 | 4,0 | 89,3 |
| 60-64 | 39 810 | 1,6 | 97,1 | 158 180 | 3,7 | 93,0 |
| 65-69 | 29 490 | 1,2 | 98,3 | 127 690 | 3,0 | 96,0 |
| 70 plus | 40 430 | 1,7 | 100,0 | 171 060 | 4,0 | 100,0 |
| Total | 2 432 130 | 100,0 | - | 4 273 990 | 100,0 | - |

Age/...

Age Composition of Population in Cape Metropolitan Area : Table 36⁴⁰

| <u>Age Group</u> | <u>Number of Persons</u> | <u>Percentage of Total</u> |
|------------------|--------------------------|----------------------------|
| 0 - 9 | 252 766 | 27,7 |
| 10 - 19 | 209 973 | 21,4 |
| 20 - 29 | 164 049 | 16,7 |
| 30 - 39 | 120 913 | 12,3 |
| 40 - 49 | 92 183 | 9,4 |
| 50 - 59 | 67 906 | 6,9 |
| 60 - 69 | 47 452 | 4,8 |
| 70 - 79 | 20 062 | 2,0 |
| 80 plus | 7 433 | 0,8 |
| Total | <u>982 737</u> | <u>100,0</u> |

Children younger than 10 years = 252 766 or 25,7% of the total.

Education Levels for Whites, Coloureds and Asians, 1970 : Table 37⁴¹

| <u>Education Level</u> | <u>Whites</u> | <u>Coloureds</u> | <u>Asians</u> |
|--|------------------|------------------|----------------|
| None (includes up to Std. 6) | 601 049 | 810 813 | 81 103 |
| Standard 6 | 653 399 | 896 208 | 123 248 |
| Standards 6 and 7 | 786 204 | 246 155 | 72 589 |
| Standards 8 and 9 | 838 682 | 68 037 | 30 430 |
| Standard 10 | 585 513 | 13 689 | 11 465 |
| Bachelor's degree | 73 492 | 788 | 1 526 |
| Master's degree | 7 389 | 62 | 40 |
| Doctor's degree | 3 669 | 15 | 26 |
| Standard 10 with diploma | 169 805 | 6 204 | 2 860 |
| Standard 9 or lower with diploma | 34 118 | 8 498 | 640 |
| Bachelor's degree with diploma | 18 100 | 206 | 458 |
| Doctor's or Master's degree with diploma | <u>1 861</u> | <u>24</u> | <u>11</u> |
| | <u>3 773 281</u> | <u>2 050 699</u> | <u>324 396</u> |

39. The following conclusions seem pertinent to the three tables just given:

39.1 the national population in the 0-19 year group for whites is 39,6% in comparison with 56,2% for coloured--in fact 72,4% of the coloured population falls in the 0-29 age group while the corresponding figure for whites is 56,1%. The need for the creation of more job opportunities is obvious;

39.2/....

- 39.2 in the metropolitan context, out of a total population of 928 737, 49,1% were in the 0-19 age group;
- 39.3 the education standards of the race groups cited in Table 37 are not, however, balanced. Of the total whites, 75,90% received schooling between standards 6 and 10, 2,24% received a university education, while 5,40% received post-school education. For the coloureds the corresponding percentages are 59,69%, 0,04% and 0,72%, respectively. For asians, the corresponding figures are 73,28%, 0,49% and 1,08% respectively;
- 39.4 the imbalance on the coloured side is of importance when it comes to seeking reasons for certain social phenomena in the Greater Cape Town area later on in this and other Chapters.

40. It is proposed in the succeeding Tables, to deal with literacy rates, the distribution of pupils and certain factors germane to coloured education.

Level of Literacy of Whites and Coloureds, six years and over, 1970.
Table 38⁴²

| Highest Standard Passed | Whites | | Coloureds | |
|-------------------------|-----------|------------|-----------|------------|
| | Number | Percentage | Number | Percentage |
| None | 76 300 | 2,3 | 384 860 | 23,5 |
| Sub A and B | 148 100 | 4,5 | 177 72P | 10,9 |
| Std. 1 and 2 | 175 660 | 5,4 | 259 440 | 15,9 |
| Std. 3 | 93 480 | 2,9 | 141 410 | 8,6 |
| Std. 4 | 107 890 | 3,3 | 160 040 | 9,8 |
| Std. 5 | 127 440 | 3,9 | 165 200 | 10,1 |
| Std. 6 | 481 740 | 14,7 | 178 820 | 10,9 |
| Std. 7 | 310 380 | 9,5 | 67 930 | 4,2 |
| Std. 8 | 674 940 | 20,7 | 62 490 | 3,8 |
| Std. 9 | 195 820 | 6,0 | 12 970 | 0,8 |
| Std. 10 | 851 380 | 26,1 | 19 090 | 1,2 |
| ? | 23 400 | 0,7 | 4 930 | 0,3 |
| Total | 3 266 530 | 100,0 | 1 634 900 | 100,0 |
| Number | 3 190 230 | - | 1 250 040 | |
| Percentage of literates | (97,7%) | | (76,5%) | |

Distribution/....

Distribution of Coloured and White School Populations by Standard,
1972 : Table 39⁴³

| <u>Standard</u> | <u>Coloureds</u> | | <u>Whites</u> | |
|------------------|------------------|-------------------|---------------|-------------------|
| | <u>Pupils</u> | <u>Percentage</u> | <u>Pupils</u> | <u>Percentage</u> |
| Adaptation class | 2 193 | 0,4 | 25 310 | 2,9 |
| A | 100 827 | 18,9) | 162 599 | 18,3 |
| B | 86 212 | 16,1) | | |
| 1 | 76 673 | 14,3 | 79 758 | 9,0 |
| 2 | 64 729 | 13,1 | 78 101 | 8,8 |
| 3 | 56 356 | 10,5 | 78 497 | 8,9 |
| 4 | 47 208 | 8,8 | 74 407 | 8,4 |
| 5 | 37 291 | 7,0 | 72 874 | 5,2 |
| 6 | 28 115 | 5,3 | 78 139 | 8,8 |
| 7 | 17 091 | 3,2 | 75 463 | 8,5 |
| 8 | 11 102 | 2,1 | 68 240 | 7,7 |
| 9 | 4 468 | 0,9 | 52 874 | 6,0 |
| 10 | 2 348 | 0,4 | 39 881 | 4,5 |
| Total | 534 613 | 100,0 | 886 143 | 100,0 |

Drop-out Rate for Coloured and White Pupils : Table 40⁴⁴

| <u>Year</u> | <u>Percentage Promoted : Coloureds</u> | | | | |
|-------------|--|---------------|---------------|---------------|----------------|
| | <u>Std. 6</u> | <u>Std. 7</u> | <u>Std. 8</u> | <u>Std. 9</u> | <u>Std. 10</u> |
| 1964 | 18 305 | - | - | - | - |
| | 100% | 50,3 | - | - | - |
| 1965 | 16 240 | - | - | - | - |
| | 100% | 58,2 | 32,8 | - | - |
| 1966 | 17 168 | - | - | - | - |
| | 100% | 60,7 | 39,1 | 13,3 | - |
| 1967 | 17 675 | - | - | - | - |
| | 100% | 67,1 | 41,9 | 19,2 | 9,0 |
| 1968 | 21 181 | - | - | - | - |
| | 100% | 64,5 | 46,9 | 19,2 | 12,0 |
| 1969 | - | - | - | - | - |
| 1970 | - | - | 43,8 | 18,8 | 11,3 |
| 1971 | - | - | - | 17,9 | 11,8 |
| 1972 | - | - | - | - | 11,1 |

Percentage/...

| Year | Percentage Promoted : Whites | | | | |
|------|------------------------------|--------|--------|--------|---------|
| | Std. 6 | Std. 7 | Std. 8 | Std. 9 | Std. 10 |
| 1964 | 63 084 | - | - | - | - |
| | 100% | 95,0 | - | - | - |
| 1965 | 64 353 | - | - | - | - |
| | 100% | 95,1 | 77,8 | - | - |
| 1966 | 65 789 | - | - | - | - |
| | 100% | 95,4 | 76,4 | 58,6 | - |
| 1967 | 67 474 | - | - | - | - |
| | 100% | 94,4 | 79,9 | 59,2 | 47,3 |
| 1968 | 70 184 | - | - | - | - |
| | 100% | 95,4 | 78,6 | 61,5 | 47,5 |
| 1969 | - | - | - | - | - |
| 1970 | - | - | 91,9 | 70,9 | 55,4 |
| 1971 | - | - | - | 72,4 | 55,4 |
| 1972 | - | - | - | - | 56,8 |

Comparative Costs for White and Coloured Education, 1978/1979.
Table 41⁴⁵

| *Per capita costs at schools | | | øPer capita costs at universities | | |
|------------------------------|-------|-----------|-----------------------------------|--------|---------------|
| | White | Coloured | White | | Coloured |
| Transvaal | R621 |) | UPE | R4 735 | |
| OFS | R914 |) | RAU | R4 020 | |
| Natal | R775 |) | PU for CHO | R2 440 | |
| Cape | R857 |) R225,54 | RU | R2 937 | |
| | | | UN | R2 748 | |
| | | | UP | R2 179 | UWC R1 985,34 |
| | | | UW | R2 274 | |
| | | | UOFS | R2 606 | |
| | | | US | R2 584 | |
| | | | UCT | R2 465 | |
| | | | UNISA | R 520 | |

* Includes capital costs.

ø Excludes medical students.

41. The conclusions which can be drawn from Tables 38 to 41 are:

41.1 of the whites, 37% have an education up to standard six and the corresponding figure for coloureds is 89,7%;

41.2 however, the percentages for standards seven to ten are 62,3% for whites and 10% for coloureds;

41.3/.....

- 41.3 in the case of whites the distribution of pupils between standards one and nine is more or less constant, while in the case of coloureds, there is a sharp decline after standard five;
- 41.4 far more is spent on white school and university education than on the corresponding coloured institutions.

42. To sum up this section, and correlating it with population growth and economic status as discussed under the preceding sections in this Chapter, the coloured people do not or are not able to achieve the same educational standards as whites and this inevitably has an effect on their economic status. As other social factors emerge later in this Chapter it will be observed that a lowered economic and educational status is coupled with social phenomena such as crime.

RELIGION

43. The purpose of this very brief survey, the religious beliefs, if any, of the people in the Greater Cape Town area is that religion forms a part of the lives of some people and may affect the way they think, act or express themselves. Traditional religious beliefs may also influence the present generation although in this short section, this is not being stated as an absolute. The information given is formal and not related to individual motivations. For the purposes of such a brief review this is the only way. Tables 42 and 43 deal with the religious affiliations of the inhabitants of the study area, and the distribution of coloureds among the various churches throughout the Republic.

The/...

The Religious Composition of the Population of the Cape Town
Metropolitan Area : Table 42⁴⁶

| <u>Religious Category</u> | <u>Number of Persons</u> | <u>Percentage of the total</u> |
|------------------------------|------------------------------|------------------------------------|
| Afrikaans Protestant | 187 368 | 19,1) |
| English Protestant | 119 135 | 21,1) 34,2 |
| Protestant - other languages | 29 599 | 3,0) |
| Anglican | 214 832 | 21,9 |
| Roman Catholic | 99 738 | 10,1 |
| Independent church societies | 155 960 | 15,9 |
| Orthodox | 1 753 | 0,2 |
| Jewish | 25 019 | 2,5 |
| Non-Christian faiths | 119 246 | 12,1 |
| Unspecified | 30 087 | 3,1 |
| | <u>982 737</u> | <u>100,0</u> |

The Percentage Distribution of Coloureds among the various Churches
throughout the Republic : Table 43⁴⁷

| | <u>1936</u> | <u>1970</u> |
|--|-------------|-------------|
| 1. Historical churches: | | |
| NG Sendingkerk in S.A. | 29,0 | 28,4 |
| Anglican Church | 21,2 | 16,5 |
| Congregational Church | 11,3 | 7,2 |
| Methodist Church | 10,6 | 5,7 |
| Lutheran Church | 7,7 | 4,1 |
| Presbyterian Church | <u>0,8</u> | <u>0,4</u> |
| | 80,6 | 62,3 |
| 2. Old and New Apostolic Churches and other Christian groupings | 6,2 | 18,8 |
| 3. Roman Catholic Church | 4,7 | 9,6 |
| 4. Muslims | 4,6 | 6,4 |
| 5. Other non-Christian Churches | 3,2 | 2,6 |

SPORT

44. In writing on the subject of sport a necessary decision had to be taken on the depth of the information to be supplied. As the purpose of this Chapter is to give a broad outline of the nature of

the/.....

the Greater Cape Town area, the author decided, in view of space limitations, to give a few essential statistics only. Appendix Two gives a comprehensive list of the sports participated in by white and coloured persons, excluding school children, as found in official records.⁴⁸

This information is in respect of the Republic as a whole but Table 44 gives sports club membership by coloured persons for the Cape Peninsula for 1976/1977. In its Draft Guide Plan the Cape Metropolitan Planning Committee observes that no survey of recreational requirements or existing recreational patterns of metropolitan residents has thus far been done but such a survey would be of little planning value unless supplemented by a corresponding knowledge of the recreational potential of the physical environment.⁴⁹

Coloured Sports Club Membership in the Cape Peninsula for 1976/1978 :
Table 44⁵⁰

| <u>Codes</u> | <u>Clubs</u> | <u>Registered Membership 1976/1977</u> | <u>Total Facility Type Per Code</u> |
|--------------|--------------|--|---|
| Athletics. | 10 | 440 | 8 |
| Badminton | 11 | 283 | 12 |
| Baseball | 21 | 415 | 6 |
| Bowls | 1 | 110 | 1 |
| Boxing | 8 | 216 | Community Centres |
| Cricket | 22 | 3 700 | 34 |
| Cycling | 4 | 120 | - |
| Darts | 10 units | 3 000 | Community Centres |
| Fencing | 7 | 100 | Community Centres |
| Golf | 1 | 337 | 1 |
| Gymnastics | 45 | + 5 000 | 45 |
| Hockey (M) | 11 | 280 | 4 |
| Hockey (W) | 20 | 275 | 7 |
| Netball | 38 + 5 units | 4 030 | 61 |
| Rugby | 85 | 8 080 | 40 |
| Soccer | 195 | 14 366 | 80 |
| Softball | 28 | 690 | 7 |
| Swimming | 8 | - | 7 |
| Table Tennis | 12 | 298 | Community Centres |
| Tennis | 25 | 792 | 66 |
| | <u>567</u> | <u>42 532</u> | |

45. The general impression arising from Appendix Two is that coloured participation in sport is far below that of whites, but Table 44

gives/.....

gives a different picture and the reason is undoubtedly that the information in Appendix Two was obtained from national sports bodies, while the information in Table 44 was obtained by means of research. The problem with obtaining information on sports in the study area is, as stated above, the lack of published research into participation and needs.

CRIME

46. Crime is a problem in the Greater Cape Town area as far as the coloured population is concerned but as this study is primarily concerned with municipal inputs it is proposed to give a brief overview of the problem, firstly, to fill out the portrait of the study area, and secondly, in so far as it may affect the planning and development of the area, and hence also the constitutional model. The statistics and information which follow relate only to reported crime and cannot for this reason be accepted as conclusive evidence of the incidence of crime. Tables 45 to 49 accordingly follow for that purpose.

Crimes/.....

Crimes Reported at Peninsula Police Stations during 1979 : Table 45⁵¹

| <u>Police Station</u> | <u>Murder</u> | <u>Rape</u> | <u>Culpable Homicide</u> | <u>Assault with intent to do grievous bodily harm</u> | <u>Robbery</u> |
|-----------------------|---------------|--------------|------------------------------|---|----------------|
| Cape Town | 28 | 37 | 1 | 372 | 522 |
| Camps Bay | - | 6 | - | 20 | 12 |
| Kensington | 8 | 21 | - | 199 | 90 |
| Maitland | 9 | 10 | - | 67 | 35 |
| Milnerton | 13 | 10 | - | 62 | 25 |
| Pinelands | 3 | 7 | - | 17 | 15 |
| Sea Point | 6 | 13 | 4 | 110 | 38 |
| Woodstock | 6 | 12 | - | 126 | 129 |
| Claremont | 7 | 15 | - | 71 | 60 |
| Diep River | 3 | 15 | - | 71 | 46 |
| Hout Bay | 6 | 3 | - | 78 | 11 |
| Mowbray | 2 | 7 | - | 34 | 43 |
| Muizenberg | 11 | 25 | - | 241 | 109 |
| Retreat | 25 | 81 | - | 621 | 316 |
| Rondebosch | 3 | 5 | - | 29 | 9 |
| Simon's Town | - | 1 | - | 32 | 5 |
| Fish Hoek | 5 | 13 | - | 76 | 8 |
| Wynberg | 3 | 11 | - | 60 | 61 |
| Athlone | 18 | 65 | - | 246 | 245 |
| Bishop Lavis | 34 | 106 | - | 557 | 540 |
| Elsies River | 64 | 128 | - | 694 | 675 |
| Grassy Park | 32 | 70 | 1 | 393 | 230 |
| Guguletu | 66 | 119 | - | 1 285 | 477 |
| Langa | 41 | 42 | - | 662 | 119 |
| Lansdowne | 12 | 29 | - | 106 | 115 |
| Manenberg | 25 | 86 | - | 330 | 437 |
| Mitchell's Plain | 2 | 24 | 2 | 63 | 34 |
| Philippi | 22 | 81 | - | 316 | 253 |
| Bellville | 17 | 55 | 1 | 282 | 171 |
| Durbanville | 8 | 7 | - | 98 | 23 |
| Goodwood | 1 | 3 | 1 | 45 | 20 |
| Kraaifontein | 31 | 37 | - | 319 | 123 |
| Kuils River | 25 | 30 | 3 | 207 | 72 |
| Parow | 23 | 47 | - | 400 | 227 |
| Brackenfell | 8 | 5 | - | 94 | 15 |
| | <u>565</u> | <u>1 226</u> | <u>13</u> | <u>8 351</u> | <u>5 310</u> |

Crimes/...

Crimes Reported at Peninsula Police Stations during 1980 : Table 46⁵²

| <u>Police Station</u> | <u>Murder</u> | <u>Robbery</u> | <u>Rape</u> | <u>Assault with intent to do grievous bodily harm</u> | <u>Thefts</u> | <u>Burglary</u> |
|-----------------------|---------------|----------------|--------------|---|---------------|-----------------|
| Cape Town | 24 | 548 | 50 | 298 | 3 529 | 1 397 |
| Camps Bay | 2 | 8 | 5 | 22 | 111 | 109 |
| Kensington | 9 | 91 | 29 | 196 | 390 | 294 |
| Maitland | 18 | 34 | 11 | 91 | 503 | 398 |
| Milnerton | 16 | 32 | 17 | 68 | 307 | 329 |
| Pinelands | 3 | 17 | 2 | 9 | 374 | 375 |
| Sea Point | 8 | 38 | 14 | 89 | 848 | 368 |
| Woodstock | 14 | 116 | 22 | 90 | 1 120 | 693 |
| Claremont | 3 | 49 | 10 | 90 | 1 243 | 821 |
| Diep River | 4 | 51 | 12 | 76 | 685 | 711 |
| Hout Bay | 5 | 24 | 13 | 112 | 236 | 270 |
| Mowbray | 4 | 26 | 10 | 39 | 655 | 429 |
| Muizenberg | 11 | 83 | 32 | 196 | 396 | 234 |
| Retreat | 28 | 221 | 67 | 566 | 698 | 572 |
| Rondebosch | 2 | 5 | 3 | 17 | 699 | 346 |
| Simon's Town | 2 | 7 | 4 | 30 | 91 | 41 |
| Fish Hoek | 7 | 22 | 7 | 73 | 238 | 210 |
| Wynberg | 4 | 66 | 14 | 96 | 575 | 636 |
| Athlone | 22 | 388 | 73 | 279 | 756 | 566 |
| Bishop Lavis | 45 | 491 | 81 | 557 | 583 | 504 |
| Elsies River | 86 | 748 | 124 | 735 | 1 101 | 969 |
| Grassy Park | 31 | 256 | 66 | 333 | 584 | 575 |
| Guguletu | 96 | 553 | 158 | 1 854 | 1 093 | 234 |
| Langa | 35 | 169 | 64 | 665 | 298 | 45 |
| Lansdowne | 7 | 84 | 31 | 129 | 513 | 469 |
| Manenberg | 30 | 532 | 79 | 328 | 658 | 457 |
| Mitchell's Plain | 17 | 93 | 49 | 121 | 368 | 564 |
| Philippi | 25 | 252 | 67 | 302 | 423 | 366 |
| Bellville | 25 | 127 | 40 | 231 | 1 113 | 819 |
| Durbanville | 8 | 29 | 6 | 103 | 177 | 212 |
| Goodwood | 3 | 35 | 5 | 40 | 652 | 436 |
| Kraaifontein | 46 | 93 | 36 | 315 | 390 | 321 |
| Kuils River | 31 | 71 | 34 | 235 | 370 | 292 |
| Parow | 26 | 207 | 43 | 350 | 1 436 | 878 |
| Brackenfell | 10 | 30 | 13 | 83 | 168 | 132 |
| | <u>707</u> | <u>5 596</u> | <u>1 791</u> | <u>8 818</u> | <u>23 381</u> | <u>16 072</u> |

Certain/....

Certain Offences Reported to Cape Flats Police Stations during September, 1973 to June, 1974 : Table 47⁵³

| Offence | Athlone | Bishop | Grassy Park | Philippi | Epping | Lansdowne |
|--|---------|--------|-------------|----------|--------|-----------|
| | | Lavis | | | | |
| Drunkenness | 908 | 2 567 | 1 244 | 710 | 3 165 | 492 |
| Theft | 1 017 | 466 | 483 | 556 | 922 | 463 |
| Assault with intent to do grievous bodily harm | 452 | 432 | 389 | 387 | 748 | 139 |
| Assault | 424 | 344 | 303 | 354 | 255 | 139 |
| Burglary | 425 | 187 | 148 | 373 | 427 | 221 |
| Robbery | 281 | 144 | 95 | 185 | 287 | 68 |
| Rape | 53 | 66 | 51 | 72 | 98 | 9 |
| Murder | 23 | 26 | 30 | 29 | 42 | 11 |

Crime in South Africa by Population Group 1969 to 1970 : Table 48⁵⁴

| Population Group | Population | | Convictions | |
|------------------|-------------------|---------------------|----------------|---------------------|
| | Total | Percentage of total | Total | Percentage of total |
| White | 3 730 951 | 25,88 | 47 339 | 10,45 |
| Asians | 616 995 | 4,29 | 9 879 | 2,18 |
| Blacks | 8 060 773 | 55,92 | 270 269 | 59,66 |
| Coloureds | 2 005 352 | 13,91 | 125 518 | 27,71 |
| | <u>14 414 071</u> | <u>100,00</u> | <u>453 005</u> | <u>100,00</u> |

47. The Theron Commission also pointed out that between 1963/1964 and 1967/1968 crimes relating to personal relations and communal life increased among the coloured population.⁵⁵

48. Statistics of crime do not record the pain and misery caused by criminal activities nor do they reveal the causes. However, before discussing the causes it is necessary, briefly, to look at the statistics given. Firstly, it can be said that crime is on the increase in the coloured community. If the crime statistics listed in Table 45 are adjusted by excluding the black areas of Langa and Guguletu and if the remaining Police areas are divided into predominantly white and coloured groupings, with the Cape Town Police Station figures being

apportioned/.....

apportioned equally between white and coloured--this is an assumption-- then the crime position reflects the following distribution between white and coloured:

| | <u>Murder</u> | <u>Rape</u> | <u>Assault with intent to do grievous bodily harm</u> | <u>Robbery</u> |
|--|---------------|-------------|---|----------------|
| Crimes reported in predominantly White areas: | 181 | 333 | 2 599 | 1 389 |
| Crimes reported in predominantly Coloured areas: | 262 | 721 | 5 752 | 3 921 |

49. It must not be inferred from the analysis given above that crimes reported in white areas were committed by whites; in fact the so-called predominantly white areas mostly contain coloured populations of varying sizes. However, the value of the analysis is that more crime occurs in coloured areas than in white areas which must inevitably affect the quality of life in coloured areas, as well as retarding the growth and development of the coloured person as a human being. For example, the fact that approximately 59% of all murders reported during 1979 occurred in predominantly coloured areas must affect the behaviour patterns of the people living in those areas. If the incidences of murder, rape, robbery and assault with intent to do grievous bodily harm are compared for the years 1979 and 1980 in respect of predominantly coloured areas the following result obtains:

Comparison of specific crimes in predominantly coloured areas for 1979 and 1980 : Table 49⁵⁶

| <u>Year</u> | <u>Murder</u> | <u>Rape</u> | <u>Robbery</u> | <u>Assault with intent to do grievous bodily harm</u> |
|-------------|---------------|-------------|----------------|---|
| 1979 | 262 | 721 | 3 921 | 5 752 |
| 1980 | 326 | 713 | 3 546 | 3 785 |
| Percentage: | | | | |
| increase | 24,43% | - | - | - |
| decrease | - | 1.11% | 9,56% | 34,20% |

50. Superficially it would seem that there has been a decrease in the crime rate but this is not the case: the overall crime statistics for 1979 and 1980 reveal that in 1980 there were increases of 142 in respect of murder, 10 762 in respect of robbery, 65 in respect of rape and 467 in respect of assault with intent to do grievous bodily harm. This trend seems to indicate that crime is moving from predominantly coloured areas to predominantly white areas. Apart from the social dangers inherent in a high crime rate, a high incidence of crime is also a matter of concern in respect of political changes applied to municipal government. It is submitted that white resistance to change will to some extent be based on the fear that such changes will result in the whites becoming exposed to conditions similar to those prevailing in coloured areas. As political power is vested solely in white hands at present, this is an attitude which cannot be ignored when drafting a new constitution for municipal government in Greater Cape Town.

51. Of equal importance when the question of crime is considered is the alleged causes for that crime. These are listed below:

51.1 Group area removals, which resulted in existing communities being broken up and transplanted into mass housing estates. This resulted in people from different environments and at different social and cultural levels being mixed together and the breaking of links with established institutions such as churches and social activities. This in turn leads to the corruption of children from formerly stable homes through contact with the "skolly" element.⁵⁷ Since the inception of the concept of group areas, and up to the 31st December, 1979, 58 366 coloured families in the Cape Province had been moved from their homes, while the Government plans to move an additional 7 166 coloured families in the Cape Province from their homes. In respect of whites the figures are 732 families and 114 families, respectively. During 1979, 1 844 coloured and 6 white persons were moved in terms of the group areas legislation.⁵⁸

51.2/.....

- 51.2 Overcrowding. The lack of privacy and shortage of housing impose social strains within and between families sharing housing which results in outbursts of violence.⁵⁹
- 51.3 The existence of gangs in coloured areas. There are 23 gangs said to be operating in the Cape Flats area and it is clear that these gangs have a profound influence on life in coloured areas: it is not an exaggeration to say that the gangs exercise a considerable amount of control over life in coloured areas.⁶⁰
- 51.4 The shortage of community facilities. Where there is a shortage of facilities for healthy sport and recreation, young people tend to join or form gangs or to resort to alcohol or drugs. Furthermore, where there is no community activity, which pre-supposes the existence of suitable facilities, there is a lack of community sentiment, and this lack is worse in newer areas.⁶¹
- 51.5 Inadequate Police protection. For 1979 the total authorised establishment for the South African Police for the whole Republic was 35 757, while the actual number of policemen in employment amounted to 31 887. It has been pointed out that the Police establishment for New York City alone is 34 700, almost the same number of police required to cope with crime throughout the Republic. There are more police stations in white than in coloured areas and the design of some housing schemes aids criminals. Few residents of housing schemes feel safe at night.⁶²
- 51.6 Lack of social stratification among the residents of housing schemes. The mixed social nature of housing schemes, a consequence of group area removals, prevents different social levels from stratifying.⁶³
- 51.7 Education. Education is one of the most important contributory factors in the prevention of crime and for teaching the individual how to cope with everyday situations. Education can guide the child towards acceptable social behaviour and to help him to

identify/.....

identify as a person who can cope with his social environment. The notion of education in the crime prevention role includes pre-school training.⁶⁴

51.8 Liquor and drug abuse. Drunkenness is a serious problem in coloured areas--see Table 47--and in these areas drinking patterns seem to be entrenched in cheap liquor with a high ethyl-alcohol content. Dagga is a problem but the real extent of the problem is not known. Poor socio-economic conditions and the ready availability of cheap liquor tend to lead to the abuse of liquor as a means of escape from reality.⁶⁵

51.9 Work-shyness. The extent to which work-shyness exists among coloured people has not been quantified. However, there are hoboos or tramps and unskilled, sporadic and casual workers who have neither the inclination nor the will to work full-time.⁶⁶

52. Suggestions have been made on how the crime problem can be solved. The short-term solution is improved law enforcement, which amounts to the construction of more police stations and the appointment of more policemen to the area. In this regard, the City of Cape Town has undertaken an investigation into the formation of a municipal law enforcement division. In an official notice published in The Cape Times of 3 March, 1981, the Town Clerk of Cape Town stated that an ad-hoc committee had been formed to consider the question of law enforcement and crime prevention in Cape Town, and interested persons were requested to submit their views and comments in writing. The ad-hoc committee has reported and the contents of its report will be discussed in Chapter Eight which deals with the organisational model. It should also be noted that the Committee appointed by the Cape Town City Council to Examine Behavioural Matters that cause Friction and Concern, also known as the Sonnenberg Committee, recommended that the Cape Town City Council's Beach Constabulary and Parks and Forests Law Enforcement branch be augmented, and also that the amalgamation of all law enforcement sections in the Council's service be further investigated.

53. The long term remedies for the problem of crime can be summarised as follows:⁶⁷

- 53.1 improved educational facilities;
- 53.2 improved community facilities and a more outgoing policy on the part of public and private community organisations;
- 53.3 the generation of community self-help schemes, with the employment of more registered social workers by all public authorities;
- 53.4 the better co-ordination of all welfare and preventative services so as to avoid unnecessary duplication.

54. Another suggestion that has been made to curb youth crime is a community service scheme as an alternative to imprisonment. The essence of such a scheme is that youthful offenders, instead of being tried, convicted and sentenced to imprisonment, be exposed to education, the teaching of basic skills and other activities, as well as some work experience in local businesses or industries. The youth's duration of stay in the scheme is relatively short, the whole idea being to integrate him into the community. Community service schemes have worked in Britain.⁶⁸ In addition to this measure, crime could also be combated by devices such as half-way houses, effective community development, more probation officers, and a radical restructuring of the system of administering justice in regard to sentencing juvenile offenders and the carrying out of sentences.

CONCLUSION

55. This Chapter has served to paint a broad picture of the nature of Greater Cape Town demographically, socially and economically. In Chapter Two, paragraph 25.3 it was suggested that a community consists of all the people occupying a geographic area, who agree to

share/.....

share in a common effort to preserve the community and to make it prosper, and because of this, to work together in managing the civic affairs of the community. Nothing so far written has given cause to revise this view but the statistical data does indicate that while a community exists in the macro sense in which it has been defined, that same community consists of different societies, the differences lying in the areas of ethnicity, social and cultural background, and wealth and poverty. These differences need make no difference in principle to the issue of metropolitan municipal government for Greater Cape Town since, it is submitted, societies in general are usually not uniform in character and the blend of differences mentioned is common to cities throughout the world. Where problems are likely to arise those problems will relate to white fears that their quality of life will be affected if a universal or open franchise is instituted and, as the whites are the sole holders of political power, those fears need to be resolved and the constitutional framework adopted will need to take into account the fears of lowered living standards and high local taxation. These issues will be dealt with at appropriate stages. In order to illustrate the differences mentioned supra, the following facts are submitted:

- 55.1 the estimated coloured population in Greater Cape Town--861 389--exceeds the estimated white population of 487 884;
- 55.2 the coloured population is growing at a faster rate than the white population and by the year 2000 it is estimated that there will be between 2,7 to 2,4 coloured persons for every white person--see Table 8;
- 55.3 the distribution of land in group areas between white and other races is 78,07% to whites who comprise approximately 35% of the total population, and approximately 22% of land to all other races who comprise approximately 65% of the total population--see paragraph 7;
- 55.4 Greater Cape Town is an important business and industrial centre and the core of the Western Cape--see paragraphs 23 to 25;

55.5/.....

- 55.5 coloureds have a higher unemployment rate than whites--see Tables 24 and 26;
- 55.6 coloureds, despite their numerical superiority, make a relatively minor contribution to national tax revenues--see Table 29;
- 55.7 whites earn more than coloureds and the average white household income which is more than double that for coloureds, is estimated to remain in that relationship by the year 2000--see Tables 30 to 34;
- 55.8 more white children complete a secondary school education, and more whites obtain university degrees than coloureds--see Table 37;
- 55.9 the literacy levels for whites are far higher than those for coloureds after standard six--see Table 38;
- 55.10 far more is spent on white than on coloured school and university education--see Table 41;
- 55.11 crime, particularly crimes of violence, is far more prevalent among the coloured population--see Tables 45 to 48--and this high crime rate has been attributed to poor socio-economic circumstances, group areas removals, overcrowding and deprivation in respect of basic community facilities.

NOTES

1. The source for these figures was the 1979 Official South African Municipal Year Book for the municipalities and the official records of the Divisional Council of the Cape for that Council.
2. Letters with completed questionnaires received from the Town Clerks of Cape Town, Bellville, Brackenfell, Fish Hoek, Goodwood, Kuils River, Milnerton, Parow, Pinelands, Simon's Town and the Engineer of the Divisional Council of the Cape.
3. Returned questionnaires from the Town Clerks referred to in n.2 above and the Engineer of the Divisional Council of the Cape.

4. Sosiale Atlas van die Kaapstad Metropolitaanse Gebied, pp. 10-11.
5. The Slater Two Report, p. 3.
6. Cape Town Metropolitan Transport Plan, Vol. 3, p. 3.
7. Cape Metropolitan Area Draft Guide Plan, fig. 2.
8. National Physical Development Plan, Table 4, p. 33.
9. Cape Metropolitan Area Guide Plan, p. 12
10. Returned questionnaires from the same sources given in n. 2.
11. A Spatial Development Strategy for the Western Cape, pp. 1 and 4.
12. Returned questionnaires from the same sources given in n. 2 except the total area which is taken from the 1979 Municipal Year Book.
13. Returned questionnaires from the same sources given in n. 2.
14. Returned questionnaires from the same sources given in n. 2.
15. 1979 Municipal Year Book, pp. 372-378.
16. The estimate was arrived at by adding together the number of industries for the Cape Town and Wynberg magisterial districts as given in the Interim Report on (the) Economic Potential of (the) Western Cape, The Bureau for Economic Research, University of Stellenbosch, p. 2.16. This report was issued in 1979.
17. As adapted from Table 8 in the report A Spatial Development Strategy for the Western Cape. It must be borne in mind that in this Report the Cape Metropolitan Area consists of the Cape Peninsula Area together with the magisterial districts of Wellington, Paarl, Stellenbosch, Somerset West and the Strand.
18. Bureau for Economic Research, op. cit., p. 2.4.
19. A Spatial Development Strategy for the Western Cape, p. 19.
20. Report of the Riekert Commission of Enquiry, p. 7.
21. A Spatial Development Strategy for the Western Cape, p. 17
22. The Riekert Commission Report, p. 23.
23. The Riekert Commission Report, p. 24.
24. Economic Development Programme pp. 96-97.
25. Economic Development Programme p. 99.
26. Economic Development Programme pp. 99, 104-105.
27. Economic Development Programme p. 96.
28. Economic Development Programme p. 108.
29. Hansard, 20 May, 1980, columns 776 and 778.
30. Hansard, 7 March, 1980, columns 323 and 324.
31. Hansard, 26 February, 1980, columns 199 and 200.
32. Hansard, 26 February, 1980, columns 179 and 180.

- 32A. The Theron Commission Report, p. 477, for example.
33. The Theron Commission Report, p. 49.
34. Cape Metropolitan Transport Plan, Vol. 2, p. 21.
35. Cape Metropolitan Transport Plan, Vol. 2, p. 22.
36. David Dewar and Vanessa Watson, Urban Problems Research Unit, University of Cape Town, commenting on the Government's Spatial Development Strategy for the Western Cape, p. 30.
37. The Theron Commission Report, p. 56.
38. The Theron Commission Report, p. 477.
39. The Theron Commission Report, p. 9.
40. Die Sosiale Atlas, pp. 14 and 18.
41. Verenigde Munisipale Bestuur, Voorstelle vir 'n Konstitusionele Bedeling vir Plaaslike Regering in S.A., pp. 6-8.
42. The Theron Commission Report, p. 172.
43. The Theron Commission Report, p. 172.
44. The Theron Commission Report, p. 174.
45. Hansard, 18 February, 1980, columns 102-103, 26 March, 1980, column 493, 26 February, 1980, column 187 and 20 February, 1980, column 134.
46. Die Sosiale Atlas, p. 30.
47. The Theron Commission Report, p. 308.
48. Hansard, 26 February, 1980, columns 175-176 and 25 March, 1980, columns 450-452.
49. Cape Metropolitan Area : Draft Guide Plan, p. 23
50. M.S. Putterill and C. Bloch, Providing for Leisure for the City Dweller, p. 100.
51. Hansard, 3 March, 1980, columns 283-284.
52. Crime figures supplied by the Minister of Police and reported in The Cape Times on 19 February, 1981.
53. Cheree Bloch, Crime on the Cape Flats, p. 5.
54. The Theron Commission Report, p. 262.
55. The Theron Commission Report, p. 263.
56. As taken from Tables 45 and 46.
57. The Theron Commission Report, p. 264
58. Hansard, 17 March, 1980, columns 383-386.
59. Bloch, op. cit., p. 61.

60. David Cohen, Cape Flats Gangs, The Cape Times, 10, 11 and 16 September, 1980.
61. The Theron Commission Report, p. 264 and Bloch, op, cit., p. 65.
62. Hansard, 19 February, 1981, columns 116-116; The Cape Times 15 November, 1980; The Theron Commission Report, p. 264; Bloch, op. cit., p. 66.
63. Bloch, op. cit., pp. 61-62.
64. Bloch, op. cit., pp. 62-64.
65. The Theron Commission Report, pp. 264-265.
66. The Theron Commission Report, pp. 265-266.
67. Bloch, op. cit., p. 68 ff.
68. Fanny A. Gross, A Community Service Scheme to help curb Youth Crime, The Cape Times, 26 February, 1981.

CHAPTER FOUR

MUNICIPAL GOVERNMENT AND ADMINISTRATION IN GREATER CAPE TOWN

INTRODUCTION

1. The purpose of this Chapter is to examine the nature and extent of municipal government and administration in Greater Cape Town. In order to do this the systems used by the various local authorities in the area will be examined, and where necessary, analysed. The general background regarding legislation has been sketched in Chapter One and references to existing legislation will be made wherever necessary for the purposes of explanation. The functions and resources of local government will also be examined against the background of Government and Provincial policy and any problems which may exist. The need for this Chapter is that, apart from measuring what has been and is being done, it sets the scene for the formulation of a new constitutional model. Maps One and Two in Chapter One, respectively, show the areas of jurisdiction of the municipalities in Greater Cape Town and of the Divisional Council of the Cape.

SYSTEMS /.....

SYSTEMS

2. There are two systems of local government in Greater Cape Town, namely, the municipal council system and the divisional council system.¹ Management committees are administered by local authorities but for the reasons given in paragraphs 13.1, 21 and 33 of Chapter Two, these bodies are not considered to be local authorities; they can at their best only be described as advisory appendages, totally lacking in executive powers, which have been tacked onto existing local government systems, and which, apart from not having any legitimacy, have the effect of further complicating the decision-making process in local government. The characteristics of local government in the Cape are the following:

- 2.1 a defined area proclaimed by the Administrator of the Cape Province to be the municipality or division, with the Administrator having the power to amend or re-define the area or to abolish the local authority, etc. In the case of divisional councils, and in view of their special role of acting as the nursery for future municipalities, parts of a divisional area may be proclaimed as local areas, i.e. a local area amounts to a municipal sub-unit with the rest of the divisional area being classified as the rural area;²
- 2.2 each municipality or division is a body corporate consisting of the inhabitants of the area, and this body corporate has perpetual succession and legal personality;³
- 2.3 each municipality or division is represented by an elected council whose function is to govern and represent the area. Because of the qualifications for voters--see infra-- and councillors, only white ratepayers may vote and then only for white candidates;⁴
- 2.4 municipal councillors are elected for a term of office of four years and divisional councillors for a term of five years. In the case of municipalities an election takes place every two
years/.....

years, i.e., when the system was instituted in 1976 one-half of the councillors then elected were only given a two-year term of office to enable the rotation of elections to take place every two years. Divisional councillors are elected for a straight five year term of office;⁵

- 2.5 in a municipality elections may or may not be according to wards depending on whether the Administrator has proclaimed wards for the municipality, whereas in a division elections must be according to wards. Where a municipality has wards there must be two councillors for each ward, whereas a division may only have one councillor per ward;⁶
- 2.6 the councillors of each municipality or division must respectively annually elect a mayor and deputy mayor or a chairman and deputy chairman. The powers, duties and functions of a mayor or a chairman are as imposed by law, such as acting as chairman of the council, or as conferred or imposed by resolution of the council;⁷
- 2.7 except in the case of the City of Cape Town both municipal and divisional councils may appoint occasional and standing committees of at least three councillors either for general or specific purposes, and may delegate any of their powers, duties or functions to such committees, except the powers to: approve the annual estimates, levy rates or appoint, dismiss or alter the conditions of the town clerk or secretary and heads of departments.⁸ In addition each divisional council must appoint for each local area a committee for the purpose of exercising or performing any powers, duties or functions conferred or imposed by any law on the divisional council and may appoint persons, from the local area, as additional members on the local areas committee. The divisional council may appoint one person as an additional member; but with the Administrator's consent it may appoint an additional person, and the Administrator may appoint not more than three persons;⁹

2.8 in the case of the City of Cape Town, the Council must by law have an Executive Committee consisting of five members. The Chairman of the Executive Committee is appointed for a period of two years and the other members for a period of one year. The four ordinary members of the Executive Committee are the chairmen of the four standing committees permitted by law. The four standing committees permitted consist of seven councillors appointed by the council, while the Executive Committee appoints the chairman of each standing committee from amongst its members. The functions of standing committees are limited to amenities, utility services, health, housing, Bantu Affairs--no longer a function of local government--and works and planning;¹⁰

2.9 the full council, whether municipal or divisional must meet at least once per month, while no such stipulation is made in respect of committees;¹¹

2.10 as far as decision-making is concerned, all councillors present at a council or committee meeting must vote, and all issues are decided by ordinary resolution unless a special resolution is required by law. An ordinary resolution is a resolution carried by a majority of the votes cast by those councillors present and voting, while a special resolution is carried by a majority of the total number of councillors. Where there is an equality of votes on any issue, the chairman of the council or committee has a casting vote in addition to his deliberative vote.¹²

3. Table 50 infra illustrates the number of councillors and committees among the local authorities in Greater Cape Town.

Comparative/.....

Comparative Table of Local Government Councillors and Committees in Greater Cape Town : Table 50¹³

| <u>Local Authority</u> | <u>Total No. of Councillors</u> | <u>Total No. of committees</u> | <u>Size of committee membership</u> | <u>Frequency of meetings</u> |
|--------------------------------|---------------------------------|--|-------------------------------------|--|
| City of Cape Town | 34 | Executive Committee Four Standing Committees | 5 8 | 5 times per month. 1-2 per month. |
| City of Bellville | 10 | 3 | - | Once per month. |
| Divisional Council of the Cape | 15 | Five Standing Committees | Varies from 6-7 | 1-2 per month. |
| | | One Occasional Committee Two other committees | 6 7 and 3 | Once per month. As the need arises. |
| Brackenfell | 6 | Four committees | - | Committees meet whenever necessary; the Council meets twice monthly. |
| Fish Hoek | 8 | One Management Committee | - | Committee meets when necessary; the Council meets twice monthly. |
| Goodwood | 8 | Nil | - | The Council meets weekly. |
| Kuils River | 8 | Nil | - | There are two Council meetings each month. |
| Milnerton | 8 | Four Standing Committees | - | Once per month. |
| Parow | 8 | Four Standing Committees | - | Once per month. |
| Pinelands | 6 | Two Standing Committees | - | Once per month. |
| Simon's Town | 8 | One Standing Committee One Occasional Committee | - | Once per month. |
| Durbanville | 8 | Not given | - | - |
| Kraaifontein | 8 | Not given | - | - |

4. The above Table gives rise to the conclusion that, the larger and more complex the local authority, the greater the number of councillors and the greater the tendency towards the functional division of the work of councillors through the creation of committees. The advantages and disadvantages of the multiple and management committee systems are discussed infra in paragraphs 21 to 29. The need for control over the growth of committees will be discussed in Chapter Seven which deals with the constitutional model.

VOTERS AND ELECTIONS

5. The qualifications for voters in municipal and divisional council elections are that a voter must be:

5.1 a natural person who qualifies to be registered as a voter in terms of the Electoral Act, 45 of 1979, and this Act limits registration of voters to white South African citizens over the age of 18 years;¹⁴ or

5.2 a fictitious person, which is a deceased estate, registered company, a partnership, any corporate association of persons or an assigned estate but does not include the State or a local authority. A fictitious person casts its vote through a registered representative;¹⁵ and

5.3 be the owner or occupier of immovable property within the municipal or divisional area.¹⁶

6. The onus of enrolling as a voter rests on the person concerned and it is the duty of the town clerk or secretary, as the case may be, to frame a voters' roll broadly along the following lines:

6.1 by the 7th May in every year in which an election is to be held a preliminary roll must be prepared;

6.2/.....

- 6.2 an advertisement is inserted in the press advising the public that the preliminary roll may be inspected and that persons claiming they should be enrolled or objecting to persons enrolled should make their claims and objections in the prescribed manner and within the time allowed;
- 6.3 the claims and objections are heard by a voters' roll revision court, the members of which consist of the mayor or chairman, as the case may be, and two other councillors appointed by the council;
- 6.4 the claimants and objectors, with the person objected to in the latter case, are given notice to appear before the revision court, and this court is empowered to hear the claims and objections and to come to a decision on them. The sittings of the revision court are open to the public and the press;
- 6.5 once the revision court has completed its task and the roll has been signed by the chairman of the court, that roll is the final voters' roll for the local authority until a new roll is made.¹⁷

7. In order to be eligible for election as a councillor, the aspirant candidate must:

- 7.1 be a voter who is eligible to be elected; and
- 7.2 not be disqualified for any of the reasons given, e.g., such as not owning or occupying immovable property in the area, be disqualified in terms of the Electoral Act, 45 of 1979, be insolvent, be of unsound mind, etc.¹⁸

8. Once the candidate councillor has been nominated and his nomination is in order, then, and assuming that he faces opposition, an election must take place. The following factors are worth mentioning about the election:

- 8.1 the town clerk is usually the returning officer and he is responsible for the appointment of adequate staff and the general management of the election;

- 8.2 voting at elections is by secret ballot with provision made for assisting incapacitated or illiterate voters, as well as dealing with dual voting;
- 8.3 strict provisions exist for the conduct of the election during polling hours and at the counting of the votes after polling closes to ensure that irregularities or corruption do not vitiate the choice of the voters;
- 8.4 candidates and their agents may be present in polling stations and at the counting of votes but may not interfere either with voters or with the electoral staff;
- 8.5 the outcome of the poll is determined by which candidate obtains the greater number of votes, and the successful candidate assumes the office of councillor at the time when he is declared duly elected.¹⁹

THE PRESENT FUNCTIONS OF LOCAL GOVERNMENT

9. The functions of local government are multifarious and arise not only from the Ordinances of the Cape Provincial Council but also from Acts of Parliament. At this point it is necessary to consider why local authorities only render a service if this service is expressly or impliedly authorised by a statute. The reason for this is the doctrine of ultra vires. This doctrine can be described as follows:

- 9.1 The doctrine exists to prevent local authorities from exceeding their powers or from spending money without authority. Put another way, it is a means of compelling local authorities to stick to their authorised functions;
- 9.2 the doctrine has its roots in notions of minimum government;
- 9.3 as far as local government is concerned, the doctrine results in a considerable amount of control by higher tiers of government which means that it is inimical to the idea of local

autonomy/.....

autonomy, and may also cloud the issue of accountability;

- 9.4 the doctrine does, however, also operate to prevent local political groupings from spending public funds on carrying out in practice political theories not held by the central government political group in power. On the other hand, the doctrine also stifles initiative and prevents innovation;
- 9.5 one reason why the doctrine is so effective in practice is that the person, or group of persons, who approve unauthorised expenditure can be surcharged with the amount involved;
- 9.6 if local authorities are relieved of control by the doctrine of ultra vires this may result in even more strict controls over spending by higher tiers of government. Most pleas by local authorities for relief have been met by even stricter controls.²⁰

Provincial Controls

10. It is not proposed to analyse in depth the control exercised by the Administrator of the Cape over local government in the Cape Province, since space does not permit such an analysis but some reference to a few leading examples, both major and minor, is needed to bear out the comments made about control in the comments about the doctrine of ultra vires. The examples are taken from the Municipal Ordinance, 20 of 1974, but similar provisions apply to divisional councils. In the Cape Province, a local authority may not incur expenditure on the following items or carry out the action stated without first obtaining the Administrator's approval:

- 10.1 the exemption of a councillor to enable him to participate in a contract with his council;²¹
- 10.2 the payment of fixed monthly allowances to councillors;²²
- 10.3 the delegation of powers to employees;²³

10.4/.....

- 10.4 the determination or re-determination of the salary and allowances payable to the town clerk;²⁴
- 10.5 departures from the approved estimates of revenue and expenditure on the capital account;²⁵
- 10.6 raising a loan;²⁶
- 10.7 spend capital funds where the loan concerned will take more than five years to repay;²⁷
- 10.8 acquire immovable property or expropriate immovable property or sell or lease immovable property;²⁸
- 10.9 declare land to be a public street or public place or close a public street or public place;²⁹
- 10.10 carry out the work of providing municipal services;³⁰
- 10.11 establish a cemetery;³¹
- 10.12 enter into a contract with another person or body for the exercise or performance or any power, duty or function which the council may exercise or perform;³²
- 10.13 guarantee bonds and lend money to employees for their personal housing;³³
- 10.14 control hawkers using public streets;³⁴
- 10.15 lend money or make grants;³⁵
- 10.16 pay allowances to the mayor and deputy mayor;³⁶
- 10.17 fix tariffs and fees by resolution;³⁷
- 10.18 make by-laws which become legally enforceable upon promulgation by the Administrator, who may change the draft submitted to him;³⁸

11. The above list is not exhaustive but it indicates the general nature and scope of Provincial control over local government in the Cape Province. In all important respects the control exercised covers the issues most central to local government, namely, the fixing of taxes and related financial aspects, the provision of services, the acquisition and sale of property, contracts and personnel, because, for example, if the Administrator controls the level at which the town clerk is paid, he effectively controls the levels at which all personnel are paid. This in turn raises the issues of local autonomy and accountability.

Local Autonomy

12. Local government in South Africa evolved from direct local administration to indirect local self-government.³⁹ However, local government exists as part of a hierarchy of government, and in that hierarchy, it occupies the third position--see Chapter One, paragraphs 26-34 in particular. The nature of South African central government is unitary and not federal,⁴⁰ and Parliament, which is the sovereign legislative power has the obligation to make laws for the peace, order and good government of the Republic.⁴¹ Related to the question of autonomy is the question of democracy: leaving aside for the moment the fact that only whites in South Africa enjoy real political power, the question is whether a decision by Parliament, most of the members of which are elected by the enrolled electorate, is more democratic than a decision taken by a local town council, the members of which are also elected by the local enrolled electorate?

13. The dictionary defines autonomy, inter alia, as: the right of self-government; personal freedom; a self-governing community.⁴² According to Birch, the notion of local democracy, that is locally elected representatives controlling decision-making and being accountable to the electorate, is contradicted by two paradoxes, the first being public apathy, and the second being that although there is attachment to the symbols of local independence, few people really care whether their local council has any genuine independence or not.⁴³ Hill states that in a

unitary/.....

unitary state it is generally accepted that the centre must overrule the localities, and although it is just as democratic to follow the will of the Minister, this view is being challenged in the debate on decentralisation. Another difficulty is that democratic theory and practice are concerned with a diversity of aims, including majority opinion as expressed in elections, the protection of minorities, and individual rights and duties.⁴⁴ The Maud Report states that English local government does not have some uniquely democratic content, and the idea that it is peculiarly democratic originates in the participation of councillors in so much detail work.⁴⁵

14. If then, in a unitary state the central government has and exercises the power to control local affairs, why is concern so frequently expressed about inroads into local autonomy? Cloete identifies three important reasons as to why local authorities exist, namely: (1) to provide public services in a country which covers a large geographical area; (2) some services can only be provided at local level and the circumstances and needs of towns differ; (3) the existence of a municipal authority means that there is a measure of local discretion in the provision of services, coupled with local participation.⁴⁶ The Maud Report found that the strict application of the ultra vires doctrine circumscribed the freedom of English local authorities, and this, together with the too-frequent need to obtain Ministerial consents to proposed courses of action, hindered re-organisation and inhibited enterprise. Long-term financial planning became impossible because of dependence on unpredictable consents which were often based on expediency, with the result that committees and senior officials tended to look primarily to central departments to sanction their projects rather than to a directing body of their own authority. In turn, this exacerbated local government fragmentation of purpose because of the lack of co-ordination between government departments.⁴⁷

15. Richards stresses the point that a healthy democracy needs a strong, vigorous and independent-minded local government genuinely able to exercise initiative and judgment. He adds that at the same time,

British/....

British local authorities get massive monetary aid from the Treasury and are expected to assist in promoting national social purposes. However, the status of British local government has been eroded, both by its own weaknesses in the fields of finance, organisation and personnel, and by the development of a highly centralised form of public administration.⁴⁸ Gie draws attention to the resistance of ratepayers to property tax increases and the narrowness of the local government tax base, but does not believe that the Central Government in South Africa will grant any meaningful new source of taxation in view of its tendency to centralise taxing powers. This leaves open only the avenues of subsidy, rates on State property and the exemption of local authorities from excise duty and sales tax.⁴⁹ Botha states that local autonomy is a matter of pride for South African cities, and local autonomy constitutes an important non-economic element in the rating system of cities and towns in countries in which national and lower levels of administration are conducted along democratic lines. If the property tax system were in South Africa to be replaced by a system of subsidies, an important tier of government would be virtually eliminated and a degree of centralization introduced into local affairs which would not be acceptable to the average citizen.⁵⁰

16. An initial reading of the views given above seems to indicate that there is an irreconcilable conflict of views on local autonomy but, it is submitted, this is not the case. The problem can be analysed as follows:

16.1 South Africa is a unitary state and in common with other unitary states, there is an increasing tendency to centralise taxing and legislative powers;

16.2 local government, although it does not enjoy constitutional protection, is a permanent part of the government of South Africa and renders a variety of necessary services to its citizens;

16.3 local government accountability is hard to sustain in the face of the numerous controls imposed on it by higher tiers of

government/.....

government, and as these controls tend to be anonymous and sometimes arbitrary, accountability is a problem for the man in the street;

- 16.4 local government is dependent on higher tiers of government for financial support;
- 16.5 local government is subject to the doctrine of ultra vires and the enabling legislation it requires comes from the higher tiers of government;
- 16.6 strong and vigorous local government is essential for the proper government of South Africa; but
- 16.7 at the same time there will always be a need for national policies to be decided and applied by the Central Government.

17. The above analysis indicates that there is not in fact a conflict as such, because the separate roles and functions of the different levels of government are defined and it would not be possible for local government to assume or take-over the functions of the Central Government. The core of the problem seems to be local government resentment at the existence of unnecessary controls, and the habit of the Central Government, when it grants funds, of specifying in detail how the money is to be spent, leaving the local authority with little or no initiative. To be realistic there are many small local authorities which would not object to control, and who need the input of expertise or knowledge behind the control. When it comes to controls Cloete has identified three possible approaches open to the Central Government, namely:

- 17.1 the laissez-faire approach, in which the minimum of control is applied but in which the local authority cannot depart from accepted standards; or
- 17.2 the regulatory approach, in which administrative action is spelt out in detail in order to achieve national goals, but which also opens local government to party political interference and manipulation; or

17.3/.....

17.3 the leadership approach, in which the Central Government provides leadership by outlining policies in broad detail and supports local government financially and by providing information on current research.⁵¹

18. It is submitted that it is the regulatory approach which is followed at present in South Africa but, as Cloete avers, the correct approach to follow is the leadership approach.

Accountability

19. When an unpopular decision is taken by a municipal council, who can be held responsible by the general public? In other words, where does the accountability lie? To answer these questions it is necessary to look at the systems under which councillors operate, and the controls to which they are subject. On the question of controls, paragraphs 9-18 above deal with these in sufficient detail to enable it to be said that while local government is theoretically self-governing, it does not enjoy political or administrative autonomy. Borckenhagen makes the point that it is a cardinal principle of democratic government that elected representatives should not only be accountable for the safekeeping of funds but also for the levying of taxes to ensure that the necessary funds are made available. The application of this principle has the effect of creating a nexus of accountability between the voter and the governing body. However, this principle is only of value if the greatest possible amount of the funds collected come from local sources.⁵²

20. Keeling states that accountability is sometimes said to consist of the right to information and to challenge decisions, while to others it is a question of the personal responsibility of the office-bearer.⁵³ Hill states that democratic citizenship revolves around accountability and access to government and governors, and these two problems are central to the debate about the effectiveness of democratic society. Representation includes accountability and representing political interests but councillors tend not to be representative in

Britain/.....

Britain because they tend to be older, more middle-class and retired. Where the electoral system permitted three councillors to a ward, with annual elections for one councillor, this tended to slow-down political change. Where elections were not contested, the principle of accountability failed.⁵⁴ Self describes accountability as the dilemma of public administration; the reason for the dilemma is the complexity of modern public administration in relation to demands for public consultation and participation, the complexity of problems, and the problem of implementing policies.⁵⁵ Finally, Cowden states that the emphasis on accountability has had a marked influence on the format of democracy's main decision-making instrument, the budget, the idea being that the voters, through their elected representatives, retain control over the appropriation of funds.⁵⁶

21. From what has been written above it can be inferred that the idea of elected representatives being accountable to their voters for the decisions they take is accepted in theory as part of the democratic process. In South Africa, where most of the inhabitants of local authorities do not have any form of representation, this places a formidable burden on councillors that their decisions should be fair in respect of all the inhabitants of their area as the majority do not have the normal democratic means, the vote, in order to show their displeasure at decisions taken. Passing from the general to the specific, it is necessary to look at the environment in which councillors take decisions. From Table 50 supra, it will have been noticed that, except for the City of Cape Town, the other local authorities in Greater Cape Town either use the multiple committee system or the whole council considers all matters. In South Africa there are two main systems by which municipalities operate, the first being the multiple committee system as applied in Natal and the Cape Province, except for Cape Town, and the management committee system as practised in the Transvaal and the Orange Free State. The multiple committee system means that the work of the council is divided into functional units to which departments report, while each committee reports to the council, i.e., the organisation is vertical and splits the departments into separate compartments. The management committee is a policy and business committee.⁵⁷ Figures Four and Five infra illustrate both of these systems.

Figure/....

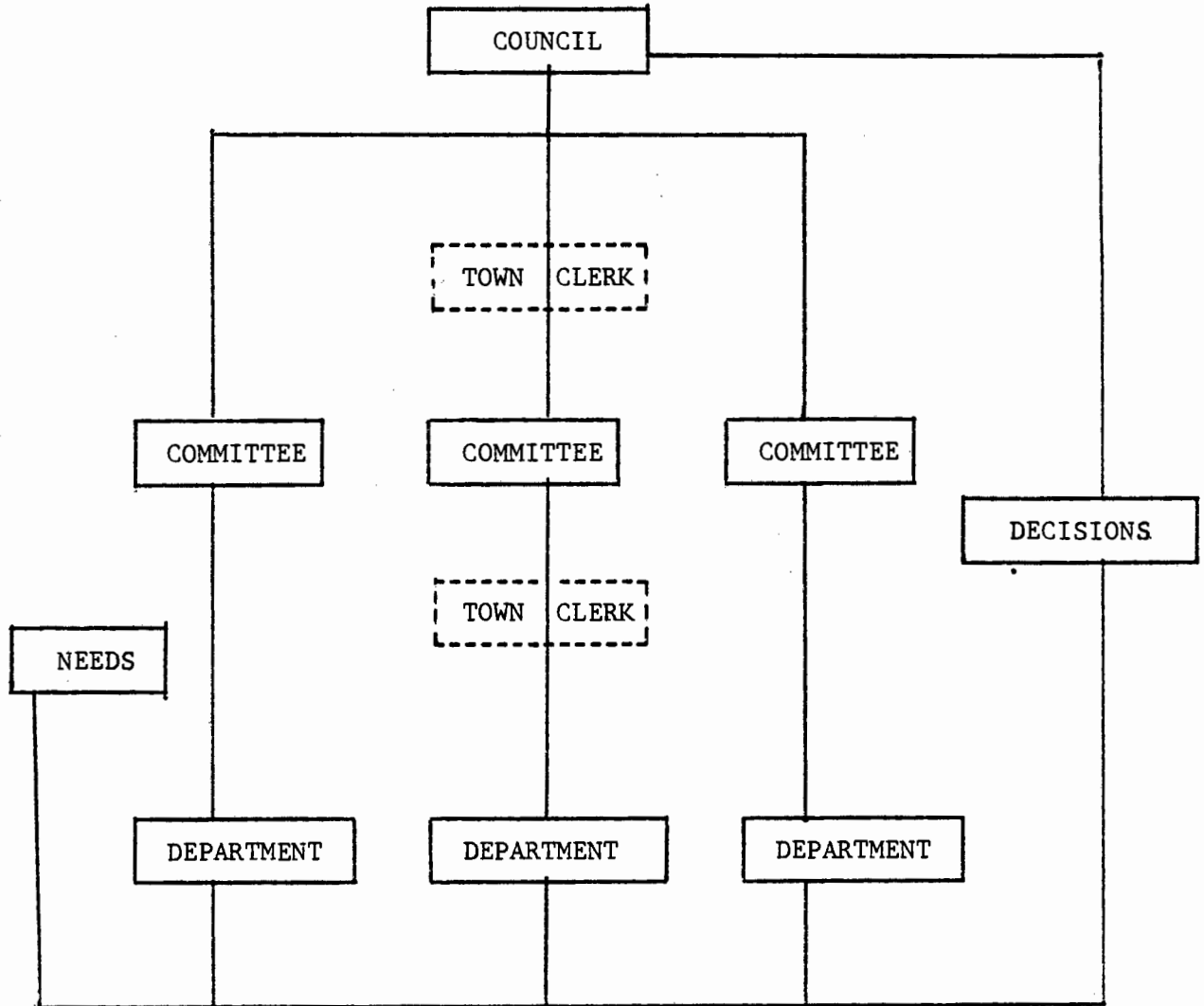
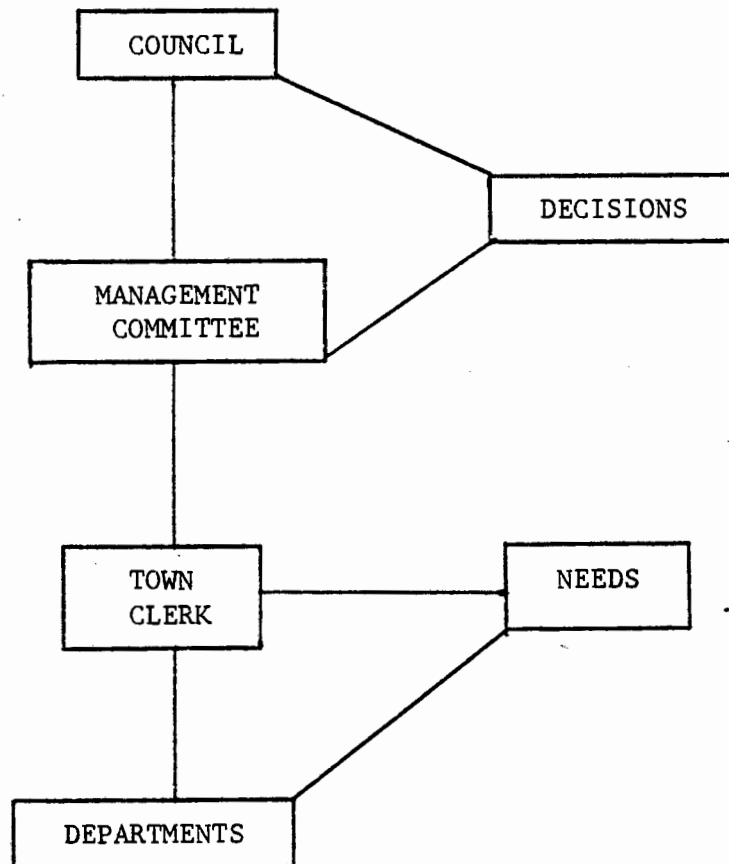
FIGURE FOUR:THE MULTIPLE COMMITTEE SYSTEM

FIGURE FIVE:THE MANAGEMENT COMMITTEE SYSTEM

22. The Marais Commission into the system of local government in the Transvaal gave a lot of attention to the multiple committee system. The Commission stated that a peculiarity of the system was that neither the council nor the town clerk nor the staff, either separately or corporately, managed the town. Instead all policy was determined and implemented by the corporate efforts of small groups of councillors and senior staff, i.e., the council was divided into a number of small bodies amongst which the officials were divided, and in attending to the affairs of the town, these small groups were in reality each autonomous in its own sphere.⁵⁸ The core of the problem with which the Commission was faced was the committee system. The Commission stated that the reason for the existence of systems such as the appointed mayor or city manager was the imbalance of power between councillors and officials. This imbalance could result from the officials having too much authority in the determination of policy, or by the councillors acting beyond the bounds of their competence by interfering in the execution of policy. As an alternative to having power vested in one person, consideration could be given to the committee and cabinet systems.⁵⁹ It is generally accepted that larger groups of people are less effective and efficient in taking decisions, and this is particularly true in the case of management by lay-persons in a democratic government. It is for this reason that Parliament decides policy and the execution of that policy is left to Ministers, and although the Ministers are corporately accountable to Parliament, the work to be done is divided among them. In this manner national policy is executed by means of delegation and specialisation but with an important control measure; Ministers must report to Parliament and account for what they have done and Parliament has the uncontestable right to dismiss them.⁶⁰

23. Local government, however, had developed in a completely different direction. The larger councils had instituted standing committees--originally intended to investigate and advise--to carry out detailed executive functions because the large volume of work could not be managed by the full council and through the use of the delegation of powers to committees, the idea was that the whole

council/.....

council would have more time to discuss general policy. If the development of the committee system had ended at that point the system would have worked well but it went further to the extent that the committee system was no longer a part of local government but had become the whole system. The council as a place for debate had diminished and it was no exaggeration to say that in the Transvaal's larger towns and cities all work of any importance by elected representatives was done behind closed doors, leaving the council as a rubber stamp. The system had evolved spontaneously and given the nature and historical development of local government, this was inevitable.⁶¹

24. The committee system had become a tradition in local government and it was self-evident that while any system could only attempt to strike a balance between two conflicting requirements of good management, namely, the full representation of public opinion, and efficient administration, it could not completely meet both requirements. The committee system had the advantages of: permitting specialisation by councillors; a small body got things done and avoided both dictatorial attitudes and over-hasty decisions; each councillor obtained an opportunity to have a share in the management of the municipal machine; and each councillor obtained the satisfaction that, by giving orders to or assisting the officials, he was fulfilling an important role in the large and complex machine which a modern city or large town amounted to.⁶²

25. The disadvantages of the committee system identified by the Commission were as follows:

- 25.1 the committee system divides the officials into jealously guarded separate compartments more with the object of preserving authority than of maintaining efficiency. Municipal administration was the only modern organisational system that permitted independent groups of the management apparatus without a co-ordinating and managing chief official;
- 25.2 the fragmentation of the council's control, supervision and policy-making functions is the essential weakness of the committee system;

25.3/...

- 25.3 theoretically individual councillors have no authority over officials, no right of access to more information than any member of the public, and no privileges in regard to the town's by-laws than any member of the public. In practice, it was found that councillors arrogated to themselves the right of disposition over officials, who obeyed for fear of losing their jobs, and, because orders were often given to junior officials, the authority of the senior officials was thereby undermined. Councillors also abused their position to obtain information not available to the public, often for personal advantage, as well as using their position to escape liability for minor contraventions of by-laws;
- 25.4 interference by councillors, as described above, eroded discipline and morale. It conflicted with every principle of administrative organisation for an official to have more than one chief, or to expose an official to unlawful authority;
- 25.5 the committee system is also responsible for the diminution of the council as a living factor of importance in civic life, particularly in the sense that public debate on civic matters is excluded though matters being decided in private at committee meetings;
- 25.6 the committee system takes up too much of the time of councillors with the result that suitable persons are not prepared to make themselves available for election. While there may also be objections to becoming involved in an election campaign, particularly if a political party is involved, nevertheless the fear remains that, once elected, a councillor would have to neglect his business to attend committee meetings.⁶³
26. The Slater One Committee, which investigated the Cape Town City Council after the Marais Commission had reported, also offered some trenchant comments on the committee system, as follows:
- 26.1 the then system of working of the City Council was hopelessly cumbersome, caused excessive delay and circumlocution in routine business, made major decisions difficult, was extremely

wasteful/...

wasteful of the time, talent and energy of councillors and officials alike and was consequently inefficient and unduly expensive. At that time there were 16 committees in Cape Town--a short time before there had been 21;

26.2 some of the main contributory causes for the above finding were that the Council was too large, there were too many committees, resulting in fragmentation with no effective co-ordination, there was an absence of an executive body, the failure to delegate adequately to officials clogged the working of the Council and its committees, and committees were attempting to deal with subjects for which there was other appropriate machinery.⁶⁴

27. The Marais Commission report resulted in the Transvaal Provincial Council enacting an Ordinance establishing the management committee system. In respect of Cape Town, the Slater One Committee recommended a system similar to but not identical with the Transvaal management committee⁶⁵ but the system that finally emerged was different. The two systems are compared below:

Cape Town Executive Committee

Five members.

Period of office:

Chairman two years

Members one year.

Functions:

- (a) control over the collection of all revenue and the expenditure of all moneys authorised in the confirmed estimates;
- (b) the preparation of the annual draft estimates of revenue and expenditure;
- (c) reporting and making recommendations to the council on the matters dealt with by it;

Transvaal Management Committee

Three to six members depending on the size of the council.

Period of office:

Five years.

Functions:

- (a) to ensure that the resolutions of the council are carried out;
- (b) to consider any matter which is entrusted to the council in terms of any law or which is of a local government nature, excluding matters reserved to itself by the council, and to make recommendations to the council in connection therewith;
- (c) to prepare the estimates of revenue and expenditure of the council;

(d)/.....

- (d) reporting and making recommendations to the Council on any matters referred to it by the Council;
- (e) reporting and making recommendations on any other matters affecting the municipality.⁶⁶
- (d) to appoint persons as officers of the council except the town clerk and certain other senior posts;
- (e) to control the expenditure of all moneys voted by the council in its approved estimates, and all other moneys or funds made available to the council;
- (f) to report at every ordinary meeting of the council on the carrying out of all its functions.⁶⁷

28. The Orange Free State also has a management committee system.⁶⁸ The Maud Committee states that a large degree of committee activity brings in its train a large problem of co-ordination adding that without leadership, a committee is likely to be ineffective.⁶⁹ The Bains Report felt that local authorities should not be compelled to appoint statutory committees as a means of avoiding departmentalism but, as the traditional committee had been retained by the British Government, it did not seek radical alternative systems, although it did point out that even if the structure was changed and the old management process retained, strains would occur and the purpose of the change defeated. In order to assist the council as the ultimate decision-making body, the Bains Committee recommended a policy and resources committee to be responsible for all major resources, to advise the council on future plans and objectives, and to co-ordinate the implementation of those plans.⁷⁰

29. From what has been written above it will be seen that the problem of accountability is not just a matter of democracy as a political goal or practical objective. At local government level it is intimately tied to the environment in which councillors work and the committee system tends to be closed and secretive, keeping policy-making and decision-making away from the public. In any revision of local government in Greater Cape Town where civic affairs are managed on a non-racial basis, a free flow of information on policies and decisions will be vital to avoid suspicion and possible conflict, and this factor will be taken into account in the proposed constitutional model.

The/...

The classification of Municipal Services

30. The services rendered by local government since it was introduced into South Africa have not remained constant. There have over the years been changes, which reflect the changing nature of the society served by municipalities, and also by changes in Central Government policy which sometimes result in local authorities being compelled to act as the agents of the Central Government. This last situation is understandable: local government is part of the government of the Republic and because of its close contact with its citizens it is often the best vehicle available for use by the Central Government. Where friction is likely to occur is where the national policy conflicts with the political convictions of the majority of the council, e.g., group areas. It has been suggested that local authority services can be classified as being traditional or more modern community and social services, and this classification, given below, will be used with modifications:

Traditional Services

Markets
Abattoirs
Roads
Sewerage collection and disposal
Water supply
Refuse removal
Fire Fighting
Public Health
Building Control
Cemeteries

Modern Community and Social Services

Housing
Planning
Transport
Sport, Recreation and Amenities
Community Development
Civic Buildings
Ambulance Services
Traffic Control
Finance and Financial Services
Electricity
Cultural⁷¹

This classification will be followed as far as possible but this sort of classification must not be pushed too far, e.g., sewerage disposal may be traditional but it is still necessary.

TRADITIONAL/.....

TRADITIONAL SERVICES

Roads, Sewerage, Refuse Removal and
Water Supply.

31. The following table will show which local authorities in
Greater Cape Town provide these services:

Roads, Sewerage, Refuse Removal, Water Supply, Health and Fire
Services provided by the local authorities of Greater Cape Town:

Table 51⁷²

| <u>Local Authority</u> | <u>Roads</u> | <u>Sewerage</u> | <u>Refuse Removal</u> | <u>Public Health</u> | <u>Water Supply</u> | <u>Fire Fighting</u> |
|-----------------------------------|--|--------------------|---------------------------|--------------------------|-------------------------|--------------------------|
| City of Cape Town | / | / | / | / | / | / |
| City of Bellville | / | / | / | DCC | / | / |
| Divisional Council of the Cape | / | / | / | / | / | / |
| Brackenfell | Presumed, as there is an engineering department | | | / | / | / |
| Durbanville | / | N/S | N/S | DCC | / | / |
| Fish Hoek | / | Shared with DCC | / | DCC | / | / |
| Goodwood | / | / | / | DCC | / | / |
| Kraaifontein | / | / | N/S | N/S | / | / |
| Kuils River | Presumed, as there is an engineering department | | | / | / | / |
| Milnerton | / | / | / | DCC | / | / |
| Parow | / | / | / | DCC | / | / |
| Pinelands | / | / | / | DCC | / | / |
| Simon's Town | / | / | / | DCC | / | / |

Note: (1) DCC stands for the Divisional Council of the Cape which
operates the Combined Health Scheme for its own area as
well as for the Municipalities of Bellville, Durbanville,
Fish Hoek, Goodwood, Milnerton, Parow, Pinelands and
Simon's Town.

(2) The fact that the service has been ticked does not neces-
sarily mean that the Municipality itself provides the
service. For example, Pinelands receives its fire
service under contract from Cape Town. More details are
given in the next Table.

The/...

The extent to which services are shared or provided regionally in
 Greater Cape Town : Table 52³

| <u>Service</u> | <u>Extent of regionalisation or sharing of services taking place</u> |
|----------------|---|
| Roads | Each Council is responsible for its own roads but the Divisional Council of the Cape provides roads to and from its rural area, and linking municipal areas. |
| Sewerage | <p>The Cape Town City Council has agreements to accept sewage from Goodwood, Milnerton, Parow, Pinelands and parts of the Divisional Council of the Cape. The Divisional Council of the Cape accepts sewage from parts of Cape Town, Fish Hoek, Goodwood and Parow.</p> <p>Bellville has a joint sewerage agreement with Durbanville.</p> <p>Brackenfell has a joint sewerage agreement with Kuils River.</p> <p>Goodwood, apart from its agreements with Cape Town and the Divisional Council, operates agreements with Milnerton and Parow.</p> |
| Refuse Removal | <p>Little meaningful information could be obtained but the indications are that each Council either itself operates a refuse removal service or arranges for this to be done by contract.</p> <p>Cape Town operates a refuse composting plant. Parow also operates a composting plant in partnership with the Divisional Council and Goodwood.</p> |
| Public Health | <p>Cape Town operates its own public health service, while the Divisional Council operates a service for its own area and for the municipalities of Bellville, Durbanville, Fish Hoek, Goodwood, Milnerton, Parow, Pinelands and Simon's Town.</p> <p>Brackenfell, Kraaifontein and Kuils River provide their own public health services.</p> |
| Water Supply | <p>Cape Town supplies water to Bellville, Brackenfell, Fish Hoek, Goodwood, Kuils River, Milnerton, Parow, Pinelands, Simon's Town and parts of the Divisional Council. Although Cape Town supplies the water each Council provides its own reticulation. Simon's Town also has its own dams. The Divisional Council of the Cape also uses groundwater for the water supply at Atlantis.</p> <p>No information was given about Kraaifontein's water supply but it is assumed that it obtains bulk supplies from Cape Town.</p> |

Fire Fighting The Municipalities of Cape Town, Bellville, Durbanville, Fish Hoek, Goodwood, Kuils River, Milnerton, Parow, Simon's Town and the Divisional Council all have their own fire services although in some cases these services are not very large.

To overcome the problem of small size, or where there is no fire service, agreements are entered with neighbouring local authorities.

Cape Town supplies fire services by agreement to Pinelands.

Brackenfell, Durbanville, Kraaifontein and Kuils River have entered into an agreement for mutual fire service assistance in cases of emergency. Goodwood and Parow are discussing an amalgamation of their fire services.

Goodwood provides fire cover to Elsies River in the Divisional Council's area.

Milnerton provides fire cover to Bloubergstrand and Melkbosstrand in the Divisional Council's area.

32. The above tables show that a considerable amount of unco-ordinated regionalisation of services has been achieved but it has not been possible to discover any pre-planned reason for this achievement. It seems that whatever regionalisation has taken place has happened reactively, i.e., according to the pressure of circumstances, or because in some cases it has been perceived to be a logical development.

Markets

33. The only local authority in Greater Cape Town operating a market undertaking, i.e., a market organisation as a trading undertaking, is the Cape Town City Council.⁷⁴

Abattoirs

34. The only abattoir in Greater Cape Town is operated by the Cape Town City Council.⁷⁵

Building/.....

Building Control

35. Almost no information was supplied on this service but Cape Town, the Divisional Council, Bellville, Goodwood, Milnerton, Parow and Pinelands all specifically state that they have building survey sections, and it is these which scrutinise building plans and generally monitor building safety.⁷⁶ It is presumed that the other Municipalities have similar arrangements.

Cemeteries

36. The Divisional Council of the Cape is the authority responsible for all public cemeteries within the Division of the Cape.⁷⁷ This means that it provides a cemetery service to all the municipalities in Greater Cape Town except the three in the Stellenbosch Division, namely, Brackenfell, Kraaifontein and Kuils River. It is presumed that people from these Municipalities use the Divisional Council's cemeteries as there is no record of any public cemetery in those areas.

MODERN COMMUNITY AND SOCIAL SERVICES

37. Certain of the services listed under the heading of modern community and social services can be dealt with together, while others will be discussed separately under headings of their own. The table given below deals with those which are grouped.

The/.....

| <u>Local Authority</u> | <u>Civic Buildings</u> | <u>Ambulance</u> | <u>Electricity</u> |
|--------------------------------|---|--|---|
| City of Cape Town | One Civic Centre, 23 other halls | Operates Cape Peninsula Local Authorities Ambulance Service | Three power stations and electricity also purchased from ESCOM. |
| City of Bellville | One Civic Centre, One Community centre | Member of CPLAAS | ESCOM--reticulated |
| Divisional Council of the Cape | One Head Office, Nine Halls | do | Cape Town and ESCOM |
| Brackenfell | Municipal Offices | do | ESCOM |
| Durbanville | Municipal Offices, Community centre | do | ESCOM--reticulated |
| Fish Hoek | Municipal Offices, One Hall | do | Cape Town--reticulated |
| Goodwood | Municipal Offices, One Hall | do | ESCOM--reticulated |
| Kraaifontein | Municipal Offices | do | ESCOM |
| Kuils River | Municipal Offices | do | ESCOM--reticulated |
| Milnerton | Civic centre, One Hall | do | Cape Town |
| Parow | Municipal Offices, One Civic Centre, One Community centre | do | ESCOM |
| Pinelands | Municipal Offices | do | Cape Town--reticulated |
| Simon's Town | Municipal Offices | do | Cape Town--reticulated. |

Note: (1) ESCOM stands for Electricity Supply Commission.
 (2) The Cape Peninsula Local Authorities Ambulance Service is operated by Cape Town for the benefit of the Metropolitan area but is heavily subsidised by the Cape Provincial Administration.⁷⁹

| <u>Local Authority</u> | <u>Libraries</u> | <u>Swimming Baths</u> | <u>Sporting Facilities</u> | <u>Other</u> |
|--------------------------------|-------------------|-----------------------|----------------------------|---|
| City of Cape Town | 36 plus 3 mobiles | 13 | See note below, 108 parks | Cape Town Symphony Orchestra and Rhodes Cottage Museum. Two nature reserves. Three caravan parks. |
| City of Bellville | 2 | One | One sports complex | Nature Reserve, Caravan park. |
| Divisional Council of the Cape | 7 | Nil | Several sports complexes | Three nature reserves, Hout Bay Museum, Four Caravan Parks. |
| Brackenfell | Nil | Nil | N/S | Nil |
| Durbanville | 2 | Nil | Yes | Nil |
| Fish Hoek | 1 | No | N/S | Nil |
| Goodwood | 1 | 1 | N/S | Nil |
| Kraaifontein | Nil | Nil | N/S | Nil |
| Kuils River | 2 | Nil | Yes | Nil |
| Milnerton | 1 | Nil | Yes | Nil |
| Parow | 1 | 2 | Yes | Caravan Park |
| Pinelands | 1 | Nil | Yes | Nil |
| Simon's Town | 1 | Nil | Yes | Yachting |

Note: The number and extent of sportsfields, parks and recreation areas provided by the City of Cape Town cannot easily be ascertained but in 1979 the City Council estimated that it would spend a nett R6 987 835 on parks and forests, and a scrutiny of the relevant estimates indicates that this activity includes parks, playgrounds, open spaces, sports fields, playing areas, nature reserves and public resorts.

38. To summarise Tables 53 and 54 it will be seen that as far as the metropolitan area is concerned, the City of Cape Town has become the main provider of community facilities and amenities, the authority for the ambulance service, and to some extent, the electricity service. Relating total community facilities and amenities provided, to those provided by Cape Town it will be seen that Cape Town is in effect the regional authority in this field, as follows:

| | <u>Total</u> | <u>Percentage of total provided by Cape Town</u> |
|--|--------------|--|
| Civic halls, excluding municipal offices | 39 | 58,97 |
| Libraries | 58 | 67,24 |
| Swimming Baths | 17 | 76,47 |
| Caravan Parks | 9 | 33,33 |
| Orchestra | 1 | 100 |
| Nature Reserves | 6 | 33,33 |

Traffic Control

39. The table which follows gives a view of the traffic control exercised by and in the local authorities in Greater Cape Town.

Traffic/.....

Traffic control by and in local authorities in Greater Cape Town : Table 55⁸¹

| Local Authority | Staff Establishment | No. of licensed vehicles | Area ha | Total Population | Traffic Personnel per head of pop. |
|-----------------------------------|------------------------|--------------------------|----------------|---------------------|---------------------------------------|
| City of Cape Town | 216 | 281 786 | 30 006 | 892 190 | 4 130 |
| City of Bellville | 37 | N/S | 6 478 | 73 193 | 1 978 |
| Divisional Council of the Cape | 60 | N/S | 173 530 | 287 900 | 4 798 |
| Brackenfell | 5 | N/S | 1 660 | 7 103 | 1 420 |
| Durbanville | 6 | Falls under Bellville | 1 588 | 12 910 | 2 151 |
| Fish Hoek | 6 | N/S | 6 407 | 7 680 | 1 280 |
| Goodwood | 20 | 28 000 | 1 800 | 29 090 | 1 454 |
| Kraaifontein | 9 | N/S | 989 | 29 476 | 3 275 |
| Kuils River | - | 15 506 | 1 018 | 12 435 | - |
| Milnerton | 19 | Falls under Cape Town | 5 698 | 23 180 | 1 220 |
| Parow | 35 | N/S | 2 350 | 69 050 | 1 972 |
| Pinelands | 7 | Falls under Cape Town | 567 | 12 970 | 1 852 |
| Simon's Town | 4 | N/S | 1 684 | 5 945 | 1 486 |
| | <u>424</u> | | <u>233 775</u> | <u>1 463 122</u> | |

40. On average, there is one traffic official for every 3 450 head of population. However, reference to the last column of the table shows that the standards applied seem to vary widely when measured on a per capita basis, and that the larger the local authority the greater the per capita relationship to traffic officials. These disparities indicate a need for rationalisation because standards are either far too high in some areas and too low in others, or some local authorities use their traffic powers to generate revenue, or the layout of transport corridors places an undue burden on some local authorities.

COMMUNITY DEVELOPMENT

41. This concept, which at present is only practised by the City of Cape Town, will be discussed in Chapter Eight which deals with the proposed organisational model.



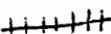
TRANSPORT

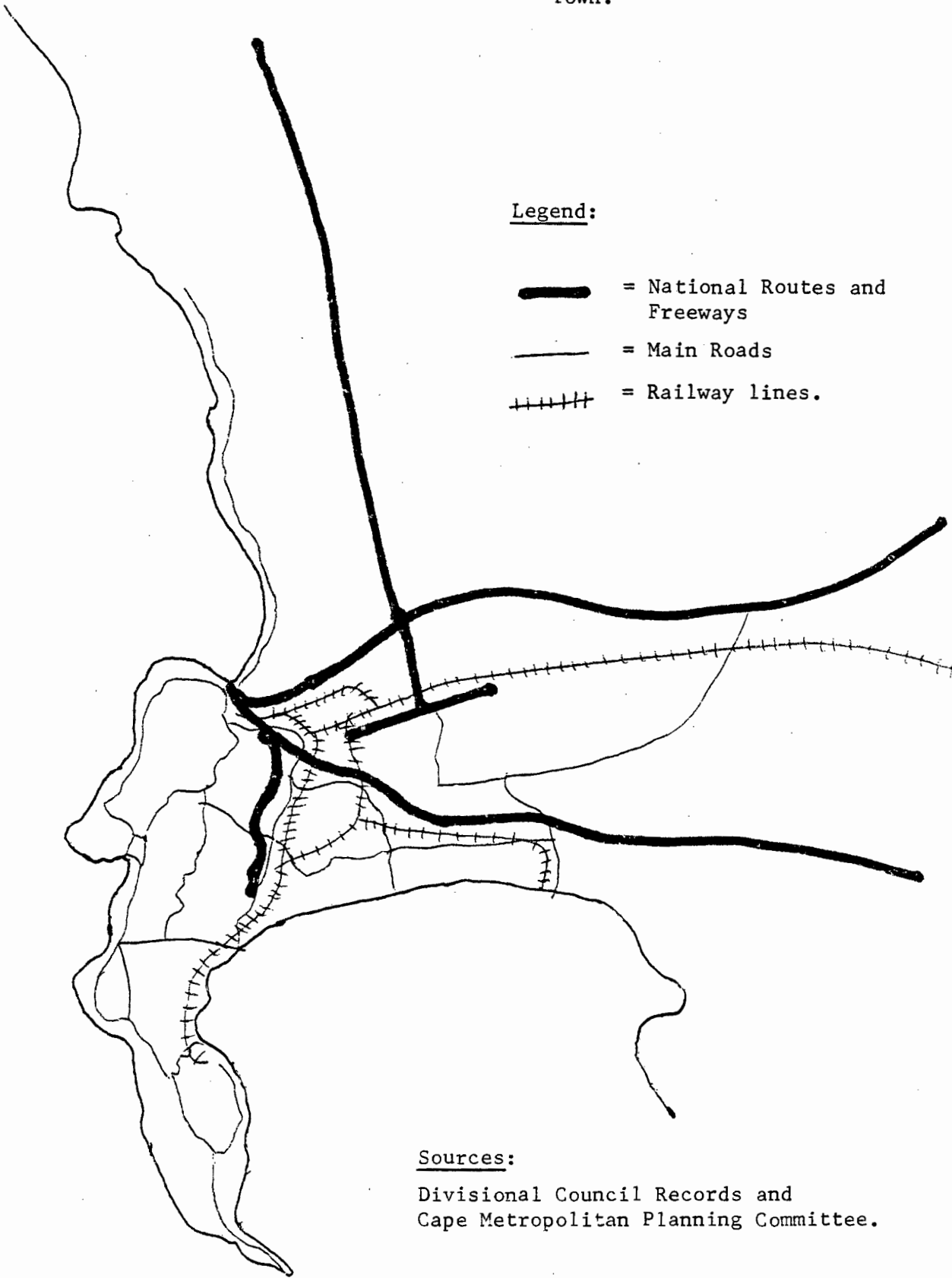
42. The Greater Cape Town area has evolved systems of transport consisting of roads and railway lines, and the methods of public transport available are bus and train, while the private motorist also uses public roads. In common with other South African cities, Cape Town's different transport systems, although planned, were never officially co-ordinated and pre-planned as one unit until comparatively recently. Thus, although transport planning is indeed a part of planning in general, recent events justify it being treated separately. Map Four shows existing main transport routes in Greater Cape Town.

43. /.....

MAP FOUR: Existing Main Transport
Routes in Greater Cape
Town.

Legend:

-  = National Routes and Freeways
-  = Main Roads
-  = Railway lines.



Sources:

Divisional Council Records and
Cape Metropolitan Planning Committee.

43. The background to what is now being done is that, following the Borckenhagen Committee which investigated financial relations between the Central Government, the Provinces and local authorities, a Committee of Enquiry into Urban Transport Facilities was established during March, 1972, and this Committee made recommendations which resulted in Parliament enacting the Urban Transport Act, 78 of 1977. Act 78 of 1977 introduced the following innovations:

- 43.1 the demarcation and declaration of metropolitan transport areas;
- 43.2 the establishment of metropolitan transportation advisory boards to co-ordinate the planning and implementation of transport projects;
- 43.3 the establishment of a consolidated metropolitan transport fund for each metropolitan area;
- 43.4 the appointment of a core city for each metropolitan area to undertake the planning and co-ordination of transportation improvements and to prepare a metropolitan transport plan in collaboration with the local authorities in the area, the provincial administrations, Government departments and private interest groups.⁸²

44. The Cape Town Metropolitan Transport Area was declared on 30th March, 1979, and the first meeting of the Cape Town Metropolitan Transport Advisory Board took place on 10th August, 1979. Included among the members of the Board, are the thirteen local authorities considered to comprise the Greater Cape Town area. Prior to this consulting engineers had been appointed to undertake a full study which provided the basic statistics for the transport plan. To assist the Board a Technical Committee, consisting of officials only, was formed.⁸³

45. The goals and objectives of the plan are lengthy and the following is a summary of them:

45.1/.....

45.1 Goal 1

To provide mobility and serve the present and future land uses, with the following objectives -

- 45.1.1 To provide all residents of the area with adequate opportunities for travel, regardless of income, age or infirmity.
- 45.1.2 To provide metropolitan residents of all race groups with a choice of travel, means and destinations.
- 45.1.3 To improve the mobility of the transport disadvantaged.
- 45.1.4 To provide a land use and transportation structure which will reduce the need to travel.
- 45.1.5 To provide fast and regular transportation for people and goods in the Metropolitan area.
- 45.1.6 To reduce the conflict between goods trips, person trips and pedestrian trips.
- 45.1.7 To provide a rail and arterial highway system.

45.2 Goal 2

To provide a convenient service for the Metropolitan transport area by meeting the following objectives -

- 45.2.1 To provide a safe public and private transport system.
- 45.2.2 To provide a fast public transport system.
- 45.2.3 To provide a frequent and regular public transport system.
- 45.2.4 To provide a more comfortable public transport system for all race groups.
- 45.2.5 To provide safe and pleasant transport termini, locating the termini to serve trip changes in the same mode of transport, and between different modes of transport.
- 45.2.6 To provide public transport services so as to minimise vehicle or mode interchanges.

45.2.7/.....

- 45.2.7 To provide a highway system that minimises the number of stops for the free flow of traffic.
- 45.2.8 To provide a reliable transport system for goods movement and handling.

45.3 Goal 3

To provide urban transport at reasonable cost by the adoption of low-cost, high-productivity transport systems and solutions, as outlined in the following objectives -

- 45.3.1 To keep the real cost of transportation to a minimum and within the affordable limits of captive users.
- 45.3.2 To improve the productivity of rail/bus/private car travel in the Metropolitan area.
- 45.3.3 To increase the utilization of spare transportation capacity.
- 45.3.4 To flatten the peak demand.
- 45.3.5 To minimise the total user costs.
- 45.3.6 To reduce accident costs.
- 45.3.7 To reduce the transportation operating costs to a minimum.
- 45.3.8 To conserve investment capital.
- 45.3.9 To reduce congestion costs.
- 45.3.10 To increase non-user benefits.
- 45.3.11 To increase user benefits.

45.4 Goal 4

To provide urban transport in a manner that will cause the minimum adverse side-effects to the area as a whole by the adoption of the following objectives -

- 45.4.1 To locate, design and manage new transport construction to minimise disruption to the physical environment.

45.4.2/...

- 45.4.2 To locate, design and manage transport facilities in a manner that will enhance the physical appearance and utilization of the physical environment.
- 45.4.3 To locate, design and manage transport facilities to reduce the socio-economic community severance effects of the system.
- 45.4.4 To keep noise and air pollution generated by the transport system within an acceptable limit so as not to damage the general health and welfare of the Metropolitan population.
- 45.4.5 To locate, design and manage transport facilities to conserve and enhance areas of natural beauty, historic landmarks and buildings of architectural merit.
- 45.4.6 To conserve energy resources.
- 45.4.7 To engender a sense of pride in the transport system.⁸⁴

46. Space permits only the briefest of references to the nature of the transport plan and this superficial summary is as follows:

- 46.1 That a land use pattern be adopted which, in the light of Government policy, assumes that no further major new towns will be permitted on the Cape Flats and that growth will be concentrated at Atlantis with a high proportion of the economically active population being employed at Atlantis.⁸⁵
- 46.2 That in order to overcome the inconsistencies and shortcomings in the existing hierarchy of roads, a programme of building or re-building some 39 highways be recommended.⁸⁶
- 46.3 The transport planners also recommend that the daily rail travel needs of commuters should be satisfied with a view to increasing the overall public transport usage, and that inter alia, improvements, including parking, be brought about at railway stations, level crossings be eliminated, and that further studies be made of the long-term planning for a fully integrated public transport system.⁸⁷

46.4/.....

- 46.4 With regard to the bus system, subsidies for uneconomic routes is urged, together with recommendations relating to physical improvements at termini, public consultation on bus transport, bus lanes on arterial roads, a unified ticket system, and an improved public information system.⁸⁸
- 46.5 That traffic management be improved in various ways, including improvements to signs systems and traffic signals, a uniform parking enforcement policy, an investigation into staggered working hours, initially at the Epping Industrial Area, and a further investigation into the improvement of the method of reporting accidents and the use of this information for research purposes.⁸⁹
- 46.6 That no new parking facilities be provided in Cape Town's Central Business District but that improved parking be provided at railway stations. Further, when new townships are developed the policy be adopted of setting aside land for parking as close as possible to railway stations, and that the provision of this type of parking be co-ordinated with the Railway Administration's planning.⁹⁰

47. It is clear from recent developments on transportation planning that a metropolitan approach on a more consolidated basis is becoming a matter of some urgency. The present system of consulting with so many local authorities must not only make the planning process cumbersome but must also add to the costs.

PLANNING AND RELATED MATTERS

48.1 Planning Legislation

- 48.1.1 Although quite a wide range of Parliamentary and Provincial legislation affects local authorities in so far as planning is concerned, only the principal legislation will be referred to. The effect of group areas has been dealt with in Chapter Two but must be borne in mind as a factor which affects land use.

The/...

The purpose of the Environmental Planning Act, 88 of 1967 is, inter alia:

To promote co-ordinated environment planning and the utilization of the Republic's resources--to--control the zoning and subdivision of land for industrial purposes,--for the reservation of land for use for specific purposes; for the establishment of controlled areas ... for the compilation and approval of guide plans--91

48.1.2 Act 88 of 1967 can affect local authorities in the following ways:

48.1.2.1 in terms of sections 2 and 3, the zoning of land in a town planning scheme or the establishment or extension of certain classes of factories require the approval of the Minister;

48.1.2.2 section 4 permits the Minister to reserve land for certain specific purposes, including roads, railways and power lines, recreation and tourist amenities, natural areas, the processing of minerals, quarries, sand pits, etc;

48.1.2.3 sections 5 and 6 permit the Minister to control the sub-division of land;

48.1.2.4 section 6 A authorises the Minister to establish guide plan committees, and ultimately to approve a guide plan for a region.

48.1.3 In essence, the process leading up to the approval of a guide plan starts when the Minister gives public notice of his intention to form a guide plan committee, on which the local authorities concerned and representatives of the provincial administration are members. Any person with an interest in a guide plan may submit written proposals for inclusion in such a plan. The guide plan committee must consider all the proposals received and submit them to the Government, after which

they/...

they are advertised for public comment and objections. Once the comments and objections received have been dealt with, the draft guide plan must be submitted to the Administrator for his comments, after which the draft goes to the Minister for his consideration. If the Minister approves the guide plan, the fact of the approval must again be advertised, and Ministerial approval has the effect of excluding the operation of the local authority's town planning scheme.⁹² A guide plan committee was recently established for the Cape Metropolitan Area⁹³ but no details have yet emerged.

48.1.4 Provincial councils have been given legislative powers additional to those set out in section 84 of the Republic of South Africa Constitution Act, 32 of 1961. The Financial Relations Act, 65 of 1976, provides for additional legislative powers to be entrusted by the State President to provincial councils, inter alia, for town planning including the subdivision of land and the planning and re-planning of areas.⁹⁴ The Townships Ordinance, 33 of 1934, regulates the subdivision of land and town planning in the Cape Province but only town planning will be dealt with infra.⁹⁵ Chapter Four of the Ordinance requires certain councils, one of which is Cape Town, to prepare town planning schemes, while other councils are permitted to do so. In practice all councils in Greater Cape Town have town planning schemes. The Ordinance is confusing in that it provides machinery for the drafting and approval of town planning schemes as well as machinery for drafting, approving and amending a scheme in the course of preparation or awaiting approval.⁹⁶ In other words, to avoid the consequences of a fully approved town planning scheme as given infra, the legislators have devised a type of town planning scheme which in all respects is a final scheme except for promulgation as a final scheme. From discussions with municipal officials it appears that if a town planning scheme is finally approved, the local authority must in terms of

section/....

section 51 of the Ordinance pay compensation to any person injuriously affected thereby, with the result, it was stated, that there is no finally approved town planning scheme in the Cape Province because of the high costs consequent on approval.

- 48.1.5 The procedure for making or amending a town planning scheme in the course of preparation or awaiting approval is that the local authority must take a decision, after which the proposal is advertised for objections. If objections are received, these must also be submitted to the Administrator with the council's comments. If the Administrator approves the proposal he "prescribes" it for the local authority concerned and notice of this must be given in the Provincial Gazette.⁹⁷ The general purpose of a town planning scheme is stated as being a co-ordinated and harmonious development of the area in such a way as will most effectively tend to promote health, safety, order, amenity, convenience and general welfare, as well as efficiency and economy in the process of development.⁹⁸
- 48.1.6 When a local authority prepares a town planning scheme as provided for in section 35 bis of Ordinance 33 of 1934, the scheme basically consists of two main parts, the first being a map or series of maps showing different land uses related to the actual area or areas concerned. The second element is a document containing regulatory measures which define the meaning of the different land use zones, e.g., single dwelling residential, general business, general commercial, general industrial, etc., and which also set out the buildings permitted in various use zones, the minimum sizes of sites for different land uses, the coverage of land permitted for different land uses, the permissible floor areas of buildings in relation to different land uses, building lines or the distances various building in different land use zones have to be set back from the side, rear and street, boundaries, etc.⁹⁹

48.1.7 The Townships Ordinance also makes provision for two or more local authorities to act jointly in the preparation of a joint scheme, and for this purpose to establish a joint town planning committee.¹⁰⁰ This has been done in Greater Cape Town. During 1940 a Joint Town Planning Committee consisting of the Municipalities of Cape Town, Goodwood and Parow and the Divisional Council of the Cape, was established. Shortly afterwards the Municipalities of Bellville and Pinelands also joined. One of the main reasons for this step was the weak-co-ordination of subdivisions which made little or no provision for main traffic links, services, open spaces, education, cultural amenities or commercial or trading functions. The Joint Planning Committee included representatives of the Cape Provincial Administration and Government Departments. The essential idea of the Joint Town Planning Committee was to attempt to get the municipal, Provincial and Government authorities to co-ordinate all planning in a metropolitan plan but the problem was that matters of metropolitan interest were not clearly prescribed beforehand. After an evaluation made in 1969 it was felt that the time had arrived for changes to be made.¹⁰¹

48.1.8 The Joint Town Planning Committee had proved to have several shortcomings, three of which were the shortage of funds, a lack of dynamic leadership, and the fact that joint schemes were only advisory and had no binding effect. Proposals were made for changes which would involve amending Ordinance 33 of 1934 but by then Act 88 of 1967 with its guide plan provisions had come into effect with the result that a further search was made for a new system. The end result was the feeling that a guide plan should be regarded as an expression of Government policy and binding on Government departments--local authority planning did not bind these departments--and that consequently there was a need for a stronger metropolitan planning body. On 1st May, 1974, the Joint Town Planning Committee was converted into the Cape Metropolitan Planning Committee.¹⁰²

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The area covered by the new body extends far beyond Greater Cape Town and consists of eighteen municipalities and three divisional councils, together with sixteen Provincial, Government and semi-Government authorities. A Technical Committee consisting of officials only was also instituted. The function of the Cape Metropolitan Planning Committee can be regarded as two-fold, namely, co-ordination and forward planning but this body has no written constitution.¹⁰³

- 48.1.9 The Cape Metropolitan Planning Committee has produced a Draft Guide Plan, which has apparently not been approved by the Central Government.¹⁰⁴ The physical elements of the Draft Guide Plan appear in a series of maps but can briefly be described as permitting residential development to flow eastwards from Mitchell's Plain to Macassar, south from Kuils River to Macassar, north to Atlantis and north-east to Kraaifontein. From explanations given in the report, the underlying idea seemed to have been to create an urban structure in which Cape Town, Somerset West/Gordon's Bay, Stellenbosch, Wellington/Paarl, Klipheuwel and Atlantis were linked so as to bring about a primary metropolitan area developing in a linear form along transportation corridors with three important existing satellites--Somerset West/Gordon's Bay, Stellenbosch and Paarl/Wellington--with a fourth satellite being developed at Atlantis. It was recommended that development take place in line with this concept. It was also proposed that a major activity node be developed in the Bellville/Kuils River/Brackenfell area. This node would be flanked by the existing Bellville commercial area, a proposed commercial area at Kuils River, and the development of a similar commercial area at Brackenfell.¹⁰⁵ Space does not permit more detail to be given.

48.2 Government Planning

- 48.2.1 In its National Physical Development Plan the Government identified the Cape Peninsula as an existing metropolitan area and stated that further planning would be undertaken as the nature

and extent of the problems of existing metropolitan areas differed from those encountered elsewhere in the country. However, the Plan also provided for the creation of a new metropolitan area at Saldanha as part of a Cape Town-Saldanha development axis.¹⁰⁶ In a subsequent and more recent report the Government stated, in the form of recommendations to the Cabinet, that no further industrial areas should be created in the Cape Metropolitan Area since there is an estimated 1 600 ha of land zoned for industrial use and this is considered an adequate provision for normal industrial growth for the foreseeable future. The Report also recommended that no restriction be placed on the growth of Atlantis, a new growth point being developed by the Divisional Council of the Cape except physical factors, which implies that Atlantis is the obvious place where new industrial areas must be established if a further demand for these arises in the Western Cape. Other recommendations concern steps to be taken to prevent Atlantis becoming a mere dormitory area, the restriction of development in the Cape Peninsula to the east or north-east to preserve valuable agricultural land, a prohibition on further coloured group areas in the Cape Peninsula, etc.¹⁰⁷ A further recommendation states that the improvement of the quality of life in the Cape Peninsula must be sought in local objectives such as improved communication channels, transport and housing facilities.¹⁰⁸ According to the Foreword to the report the Cabinet had adopted the recommendations made.

48.2.2 A few significant statements from this report are summarised below:

- 48.2.2.1 the physical expansion potential of the Metropolitan area in the long term is greatly restricted and the area must not and cannot be developed to its full potential as this would merely create problems.¹⁰⁹
- 48.2.2.2 it is desirable that the present system--growth in the Peninsula and the problem of urban sprawl--be protected at a more local level so that existing open spaces be retained as far as possible and that an acceptable solution be found on a regional basis;¹¹⁰

48.2.2.3 industries to be located at Atlantis will still depend for specialised services on the Peninsula, which will strengthen the central services sector of the Cape. Those undertakings established at Atlantis would be in the sphere of influence of the Peninsula and would not suffer the social and economic consequences of remote decentralisation centres.¹¹¹

48.3 Criticism of Government Planning

48.3.1 The clear effect of the spatial strategy approach adopted by the Government is to recognise local problems but, instead of offering solutions, it has placed limits on the further growth of the Peninsula in order to encourage growth at Atlantis, while simultaneously deciding that no resources are to be allocated to the solution of local problems, which are left to local institutions. Dewar and Watson came to the conclusion that the Government's proposals will not solve the problem of the metropolis or the region and may well negatively affect the regional economy. In their view implementation of the Government's proposals will exacerbate the already serious problems of poverty and inequality in the Western Cape, thereby having disastrous effects on the lives of people.¹¹² They foresee that Atlantis will remain a low income town and state that the primary location objective of any planned development must be proximity to work, i.e., housing should follow work. The Government's refusal to allow job opportunities except service functions at Mitchell's Plain will inevitably result in a dull, monotonous and extremely unfunctional housing area.¹¹³

48.3.2 Dewar and Watson further state that restricting the size of Cape Town will not solve its problems as the underlying cause of these problems, which are poverty, inequality and unemployment, arise from the development of Cape Town in the form of four linear arms, to which were added a series of new, planned environments in the areas between the arms in which are

housed/...

housed the majority of the poorer people in the area. In other words, the linear arms were based on the principles of reinforcement and integration but the development of the Cape Flats area is characterised by the principles of dissipation and separation.¹¹⁴ As far as limiting the size of cities is concerned, Dewar and Watson point out that there is no unanimity in town planning theory on this issue, which more modern writers on planning are moving away from. It is more efficient to concentrate resources and to capitalise on the economies of scale thus provided. In effect no-one has yet been able to lay down a standard for city size.¹¹⁵

48.3.3 The City Engineer of Cape Town points out that to meet the housing needs for the projected coloured population of Greater Cape Town for the year 2000, and with an estimated 20% of the population of Atlantis working in Greater Cape Town, there will be a need for at least 6 000 ha of land to house a further 300 000 coloured people. To provide job opportunities for the projected coloured population, the City Engineer estimates that job opportunities for 247 800 coloureds will be required in the manufacturing sector by the year 2000. There is thus a need to zone more land for industrial development and existing undeveloped industrial land should be re-located closer to coloured residential areas. The City Engineer also recommended the establishment of a metropolitan authority, with one of its principal functions being to provide State-funded housing.¹¹⁶

48.4 Concluding Comment

48.4.1 From the legislation available to it, the Government has the power to plan right down to local level and it has done so in the case of Greater Cape Town but it is disappointing that when it is faced with the reality of local problems, it should retreat and dismiss those problems as being local matters. Coupled with the nature of the report on the spatial development of the Western Cape it is a reasonable inference that the Government's role in planning in the Western Cape is mainly tied

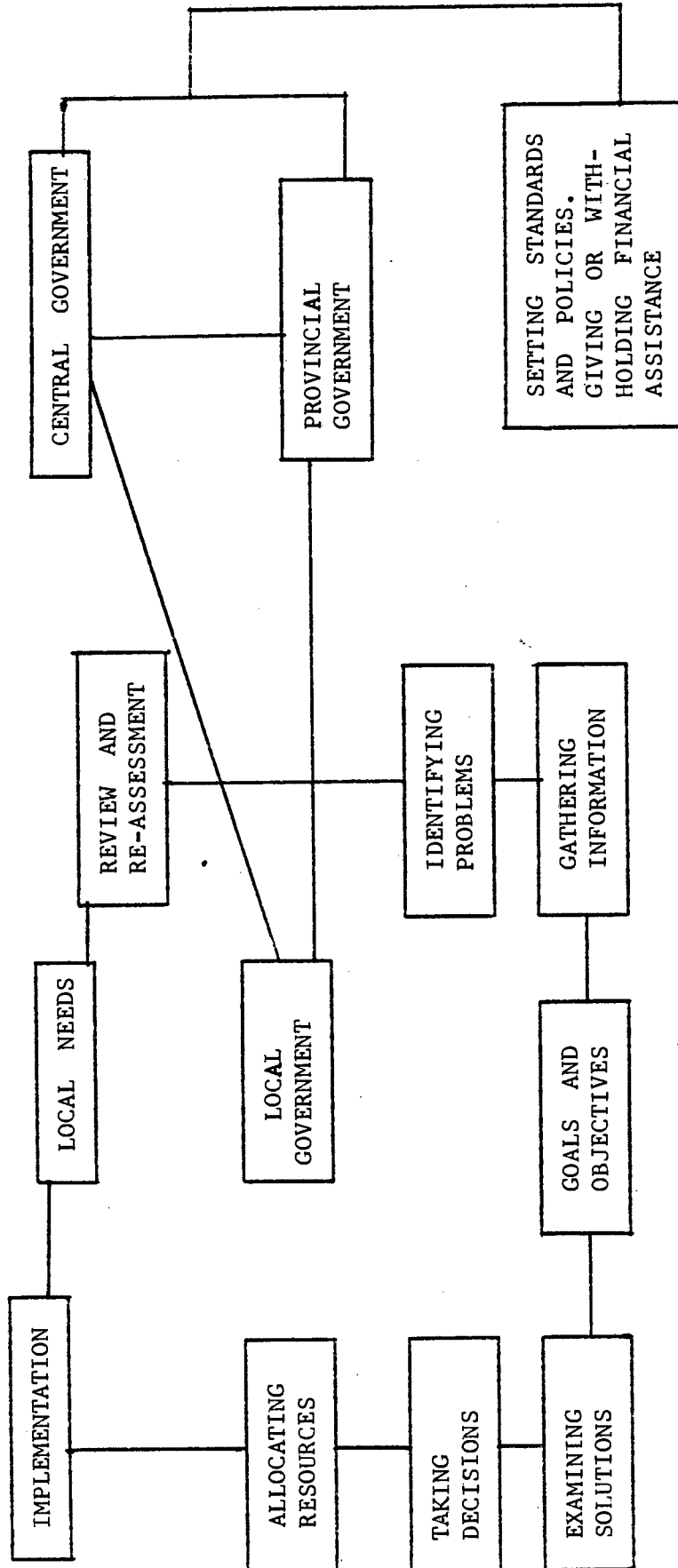
to/...

to its racial policies and that it does not intend to, or cannot, provide the leadership so urgently required to solve communal problems. This reinforces the need for a strong and vigorous local government in Greater Cape Town.

- 48.4.2 From what has been written above about the Cape Metropolitan Planning Committee it is clear that a need for co-ordinated planning exists in Greater Cape Town. As planning is but a part of the administrative process--see infra--it is considered that the need for metropolitan activity is not just confined to planning but should be expanded to include a range of services operated by a full metropolitan authority. This aspect is dealt with further in Chapter Seven, which deals with the constitutional model. Figure 6 infra illustrates planning in the local government environment.
- 48.4.3 Planning, as dealt with in this sub-section, has related solely to physical or land use planning but planning in local government is needed outside of land use planning. A local authority is also a legal and administrative entity and all its proposed or future activities should be planned. Accordingly, there may be some value in referring to a few views on administrative planning:
- 48.4.3.1 planning in society is a part of advanced modern government and is concerned with different kinds of resources: planning as an administrative strategy implies the conscious attempt to control large aggregates. In public administration the pressures towards the creation of permanent administrative structures and a planning approach have strongly influenced the bureaucracies of the modern state;¹¹⁷
- 48.4.3.2 planning is clarifying one's objectives and then determining what action shall be taken, by whom, when, by what methods, and at what costs to achieve the desired goals. It means looking ahead and arranging to meet future problems by

projecting/....

FIGURE SIX: PLANNING IN THE LOCAL GOVERNMENT ENVIRONMENT



projecting trends. Planning cannot be separated from practical administration because plans must be put into effect or they remain in the realm of intention;¹¹⁸

48.4.3.3 the planning process sets in motion decision-making machinery affecting the future based on information about the present and past: a plan should be conceived as something that will and should change--it is about adaptation. Uncertainty in planning can be reduced but not eliminated. Strategic planning--deciding objectives, resources and policies--, management control--the effective and efficient use of resources--and operational control--ensuring tasks are carried out--, all form part of the total planning process;¹¹⁹

48.4.3.4 substantive planning is a decisional activity in which the person or organisation makes broad decisions regarding the values to which he is going to direct his activities, the general methods he is going to use to attain those values and the information he will need to make particular decisions within the limits of the policy laid down, and to carry out the decisions;¹²⁰

48.4.3.5 local authority policy planning is concerned with planning the affairs of the authority as a whole, and seeking to give expression to a cycle of administration which starts with setting objectives, proceeds to the consideration of alternative solutions and decisions on those alternatives, sets targets for managerial action in the light of the decision taken, takes action, and finally reviews results and feeds back information on those results so as to modify action and to re-start the whole cycle;¹²¹

48.4.3.6 planning requires a harmonisation of interests along systematic lines and on a fairly durable basis;¹²²

48.4.3.7/...

48.4.3.7 societal planning means the drawing up by government of plans for social activity.¹²³

48.4.4 These few views illustrate the fact that planning should permeate the whole organisation and it can be said that if this does not happen the organisation is likely either to be ineffective or only partly effective. As a closing note on planning, reference will be made to two views on town planning:

48.4.4.1 town planning may be regarded as a necessary element in the management of a complex and changing urban society; it is concerned with monitoring and co-ordinating land use changes in and around cities. Town planning is not just a matter of engineering and management; it is used as part of the weaponry of social reform;¹²⁴ and

48.4.4.2 the central concern of planning is individual and societal development, with the task of creating a frame-work within which people are able to actualise their potentialities and this in turn demands a concern with the overall growth and structural change. The real task of the planner is to create a frame-work within which maximum possible freedom of action can occur, which guides the actions of people and channels energies in a non-contradictory way to create opportunities for people which could not be created by the individual alone.¹²⁵

49. Further aspects regarding municipal government and administration in Greater Cape Town will be dealt with in Chapter Five.

NOTES/...

NOTES

1. See Ordinances 20 of 1974 and 18 of 1976.
2. Sections 3 and 8 of Ordinance 20 of 1974 and sections 3 and 8 of Ordinance 18 of 1976.
3. Section 3 of both Ordinances 20 of 1974 and 18 of 1976.
4. Section 4 of both Ordinances 20 of 1974 and 18 of 1976.
5. Section 33 read with section 43 of Ordinance 20 of 1974 and section 33 of Ordinance 18 of 1976.
6. Section 32 of both Ordinances 20 of 1974 and 18 of 1976.
7. Sections 48 and 49 of both Ordinances 20 of 1974 and 18 of 1976.
8. Section 50 of both Ordinances 20 of 1974 and 18 of 1976.
9. Section 50 of Ordinance 18 of 1976.
10. Sections 5, 10 and 11 of the Municipality of Cape Town Administration Ordinance, 24 of 1965.
11. Section 51 of both Ordinances 20 of 1974 and 18 of 1976.
12. Sections 51 and 53 of both Ordinances 20 of 1974 and 18 of 1976.
13. The information in Table 51 is derived from completed questionnaires received, the Report of the Chairman of the Divisional Council of the Cape for the year 1978-1979, and the 1979 Municipal Year Book.
14. Section 11 of both Ordinances 20 of 1974 and 18 of 1976, read with section 3 of Act 45 of 1979.
15. Section 11 of both Ordinances 20 of 1974 and 18 of 1976.
16. Ibid.
17. Sections 14-18 of both Ordinances 20 of 1974 and 18 of 1976.
18. Section 25 of both Ordinances 20 of 1974 and 18 of 1976.
19. Sections 31, 39 and 40-43 of both Ordinances 20 of 1974 and 18 of 1976, as well as the Election Regulations framed by the Administrator of the Cape under Provincial Notice 310 dated 21st February, 1975.
20. See W. Ivor Jennings, The Law and the Constitution, pp. 196-197; Dilys M. Hill, Democratic Theory and Local Government, pp. 28, 30, 50, 67, 72, 77 and 207; J.W. Cowden, Holmes' Local Government Finance in South Africa, pp. 10, 40, 306-307, 321 and 354; M.L. Mitchell, in the South African Constitution, ed. H.J. May, p. 421; and Local Authorities (Audit) Ordinance, 17 of 1938, and section 9 in particular.
21. Section 30(3A)(b) and (c) of Ordinance 20 of 1974.
22. Section 56(1)(b) of Ordinance 20 of 1974.
23. Section 58 of Ordinance 20 of 1974.

24. Section 63(3) of Ordinance 20 of 1974.
25. Section 74(4)(a) and (b) of Ordinance 20 of 1974.
26. Section 101 of Ordinance 20 of 1974.
27. Section 116(1) of Ordinance 20 of 1974.
28. Sections 123 and 124 of Ordinance 20 of 1974.
29. Sections 135 and 137 of Ordinance 20 of 1974.
30. Section 140 of Ordinance 20 of 1974.
31. Section 163 of Ordinance 20 of 1974.
32. Section 173 of Ordinance 20 of 1974.
33. Section 177 of Ordinance 20 of 1974.
34. Section 179 of Ordinance 20 of 1974.
35. Section 185(a) and (b) of Ordinance 20 of 1974.
36. Section 186(3) and (4) of Ordinance 20 of 1974.
37. Section 187 of Ordinance 20 of 1974.
38. Section 190 of Ordinance 20 of 1974.
39. L.P. Green, History of Local Government in South Africa, pp. 90-97.
40. Verloren van Themaat, Staatsreg, pp. 232-233.
41. Sections 24 and 59 of Act 32 of 1961.
42. The Concise Oxford Dictionary, 4th ed., p. 78.
43. A.H. Birch, The British System of Government, pp. 240 and 247.
44. Hill, op. cit., p. 198.
45. The Maud Report, pp. 9-10.
46. J.J.N. Cloete, Munisipale Regering en Administrasie in Suid-Afrika, pp. 39-40.
47. The Maud Report, p. 11.
48. Peter G. Richards, The Reformed Local Government System, pp. 156 and 158.
49. H. van V. Gie, A Provincial View of Local Government Spending, in Provincial and Municipal Finance : Selected Readings, ed. J.J.N. Cloete, pp. 63-65.
50. D.J.J. Botha, The Nature and Incidence of Urban Taxation in South Africa, in Provincial and Municipal Finance: Selected Readings, ed. J.J.N. Cloete, p. 131.
51. Cloete, op cit., pp. 40-43.
52. C.L.F. Borckenhagen, Die Finansiële Verhoudings tussen die Sentrale, die Provinsiale en die Munisipale Owerhede, in Provincial and Municipal Finance : Selected Readings, ed. J.J.N. Cloete, pp. 48-49.
53. Desmond Keeling, Management in Government, p. 153.

54. Hill, op. cit., pp. 221-222, 137 and 133.
55. Peter Self, Administrative Theories and Politics, pp. 277-279.
56. J.W. Cowden, Programme Budgeting, in Provincial and Municipal Finance : Selected Readings, ed. J.J.N. Cloete, p. 117.
57. D.L. Craythorne, Municipal Administration : A Handbook, pp. 84 and 91.
58. The Marais Commission Report, pp. 34-35.
59. The Marais Commission Report, pp. 35-36.
60. The Marais Commission Report, pp. 36-37.
61. The Marais Commission Report, pp. 37-38.
62. The Marais Commission Report, pp. 39-40.
63. The Marais Commission Report, pp. 40-45.
64. The Slater One Report, pp. 12, 14 and 114.
65. The Slater One Report, pp. 26-27.
66. Ordinance 24 of 1965, sections 5 and 7.
67. Ordinance 40 of 1960 (Transvaal), sections 52 and 57.
68. See Chapter VIIIA of Ordinance 8 of 1962 (OFS).
69. The Maud Committee Report, pp. 14-15.
70. The Bains Report, pp. 21-24.
71. D.L. Craythorne, Sources of Local Authority Revenue, in Understanding Local Government, p. 11.
72. As taken from the questionnaires supplied by the local authorities which responded to the survey and the 1979 Municipal Year Book, the 1979 Divisional Council Year Book, and the Report of the Chairman of the Divisional Council of the Cape for the year 1978-1979.
73. The sources of information for this Table are the same as for Table 51, see n. 72.
74. 1979 Municipal Year Book, p. 484.
75. Questionnaire from the Town Clerk, Cape Town.
76. Returned questionnaires from the local authorities named.
77. 1979 Municipal Year Book, p. 134.
78. As taken from questionnaires supplied by the local authorities which responded to the survey and the 1979 Municipal Year Book, the 1979 Divisional Council Year Book, the Report of the Chairman of the Divisional Council of the Cape for the year 1978-1979, The Cape Times, 1st May, 1981, and the 1980/81 Cape Peninsula Telephone Guide.
79. An estimated R2 532 050 out of a total expenditure of R2 567 150 for 1979.

80. From the same sources given in n. 68, except The Cape Times.
81. Divisional Council records and 1979 Municipal Year Book.
82. Cape Town Metropolitan Transport Plan, Vol. 1, pp. 1-2.
83. Cape Town Metropolitan Transport Plan, Vol. 1 pp. 3-5.
84. Cape Town Metropolitan Transport Plan, Vol. 3, pp. 16-24.
85. Cape Town Metropolitan Transport Plan, Vol. 1, p. 15 and Vol. 4, pp. 6-7.
86. Cape Town Metropolitan Transport Plan, Vol. 1, p. 15 and Vol. 5.
87. Cape Town Metropolitan Transport Plan, Vol. 6, and p. 13 in particular.
88. Cape Town Metropolitan Transport Plan, Vol. 7, and pp. 14-15 in particular.
89. Cape Town Metropolitan Transport Plan, Vol. 10, and p. 15 in particular.
90. Cape Town Metropolitan Transport Plan, Vol. 11, and p. 12 in particular.
91. This is taken from the preamble to the Act.
92. Section 6A of Act 88 of 1967.
93. Government Notice 2063 dated 9th October, 1980.
94. Section 11 of Act 65 of 1976, read with item 14 of Schedule Two.
95. Sections 28, 29 and 30-32 of Ordinance 33 of 1934, read with Schedule One.
96. Sections 36-56 read with sections 35 bis, 35 ter and 35 quat of Ordinance 33 of 1934.
97. Section 35 bis of Ordinance 33 of 1934.
98. Section 35 of Ordinance 33 of 1934.
99. See for example the Revised Final Statement of the Proposed Town Planning Scheme for the City of Cape Town, and in particular pp. 13, 15, 18, 19, 21 and 27.
100. Sections 33 and 34 of Ordinance 33 of 1934.
101. G.N. van Zyl, 40 Jaar van Gesamentelike Beplanning in die Kaapse Metropolitaanse Gebied, pp. 2-5 and 7-9.
102. Van Zyl, op, cit., pp. 8-15.
103. Van Zyl, op, cit., pp. 16-21.
104. See, for example, p. 23 of the report of the City Engineer of Cape Town, Land Use in Greater Cape Town.
105. Cape Metropolitan Planning Committee, Draft Guide Plan, pp. 71, 74-80, Figs. 15 and 16 and Map XVI.

106. National Physical Development Plan, pp. 15-16.
107. A Spatial Development Strategy for the Western Cape, p. 11.
108. The Spatial Strategy report, p. 11.
109. The Spatial Strategy report, p. 9.
110. The Spatial Strategy report, p. 9.
111. The Spatial Strategy report, p. 9.
112. David Dewar and Vanessa Watson, Project Report : Comment on 'A Spatial Development Strategy for the Western Cape', p. 25.
113. Dewar and Watson, op, cit., p. 25.
114. Dewar and Watson, op, cit., pp. 4-5, 13-14 and 26.
115. Dewar and Watson, op. cit., p. 9-12.
116. City Engineer, Cape Town, Land Use in Greater Cape Town, pp. 20-25.
117. Maurice Spiers, Techniques and Public Administration, pp. 155-156.
118. M.E. Dimock and G.O. Dimock, Public Administration, p. 131.
119. Tony Eddison, Local Government : Management and Corporate Planning.
120. Herbert A. Simon, Administrative Behaviour, p. 96.
121. J.D. Stewart, The Responsive Local Authority, p. 63.
122. Self, op, cit., p. 157.
123. Poul Meyer, Systemic Aspects of Public Administration, pp. 116-117 and 120.
124. W. Harvey Cox, Cities : The Public Dimension, p. 156.
125. Dewar and Watson, op. cit., pp. iii and 1.

CHAPTER FIVE

FURTHER ASPECTS OF MUNICIPAL GOVERNMENT AND ADMINISTRATION IN GREATER CAPE TOWN

1. This Chapter continues what was commenced in Chapter Three and carried on in Chapter Four, namely, a social, legal and administrative picture of the society and local government of Greater Cape Town. The metropolitan area is so complex that even in three Chapters it is not possible to do more than sketch the picture. The use of statistics and descriptions is convenient but these methods cannot capture the essence of the human element of the area.

HOUSING

2. Section 3 of the Slums Act, 76 of 1979, places a duty on each local authority to take all necessary and reasonably practicable steps, inter alia, to ensure the provision of suitable housing or land for residential purposes generally and as far as circumstances permit, for the inhabitants of its district. However, Parliament has enacted legislation, the Housing Act, 4 of 1966, which specifies Government policy in regard to the provision of housing, and which can be summarised as follows as far as local authorities are concerned:

2.1 there is a National Housing Fund, part of the funds of which come from moneys appropriated by Parliament, and which funds are inter alia used for the purpose of granting loans to local authorities;¹

2.2/....

- 2.2 there is a National Housing Commission consisting of not less than eleven and not more than fourteen members appointed by the Minister, two of whom shall be black persons;²
- 2.3 the Commission may make advances, i.e., loans, to a local authority for the purpose of enabling it to exercise its powers to borrow moneys and to lend moneys for housing loans;³
- 2.4 where an advance or loan is granted to a local authority by the Commission it shall be repaid according to conditions stipulated by the Commission.⁴
3. The main elements of the Government's housing policy is contained in an administrative document known as the Housing Code, and the most important provisions of the Code are the following:
- 3.1 the National Housing Fund advances or lends money at interest rates varying between 1% and 9,25% depending on the economic status of the persons being housed, and the redemption periods for loans vary between 30 to 40 years, again depending on the economic status of those being housed. The actual interest rates and redemption periods at present in force are: for those earning between R150 and R250 per month, an interest rate of 3½% over 40 years; R250 to R350 per month, 5% over 30 years; R350 to R450 per month, 7% over 30 years; R450 to R650 per month, 9,25% over 30 years. Where the tenant earns less than R150,00 per month, he pays 5% of his monthly income in respect of interest and redemption with a minimum of R2,50 and a maximum of R7,50, per month;
- 3.2 the revenue and assets of the local authority serve as security for the repayment of a loan;
- 3.3 before a local authority undertakes a housing scheme it must determine housing needs by means of a survey to ensure that the housing to be provided will be suitable for the people to be housed;

3.4/.....

- 3.4 detailed instructions are given on how each township is to be planned and laid out. In this regard, densities are controlled according to race group--there must be 25 dwelling units per hectare in the case of whites, and 40 dwelling units per hectare in the case of coloureds and indians;
- 3.5 the kind of accommodation to be provided, i.e., the number of rooms, the general design and floor area of houses, is prescribed in detail. The maximum permitted cost for land, house and services is R18 500. In general, the type of house that may be provided is based on the income of the person to be housed and not his family size. Thus, a man with an income of over R300 per month may have a house with a floor area not exceeding 95m^2 , while in the income range R150 to R300 per month, the floor area is 82m^2 . The smallest permitted floor area is 68m^2 , for coloureds and indians, and the largest is 95m^2 for whites, coloureds and indians;
- 3.6 rentals are to be calculated so as to include all the capital costs associated with the provision of the house, together with allowance for contributions to repairs and maintenance, losses on rentals, insurance and administrative costs. In addition the local authority may add on to the rentals contributions to rates and the costs of sanitation, refuse removal, water, lights and sewerage;
- 3.7 local authorities are enjoined to provide community facilities. The facilities are needed to create proper and sound communities and these should be provided out of local authority funds but if capital cannot be obtained by the local authority, loans may be obtained from the National Housing Fund. Community facilities are described as communal halls, sports fields with pavilions and buildings connected therewith, swimming baths, playing fields, clinics, libraries and, in the case of coloureds, welfare centres also.⁵

4. Some of the local authorities in Greater Cape Town have provided housing, i.e., have undertaken housing schemes, as the next table will show.

Provision/.....

Provision of letting housing by the local authorities in
Greater Cape Town : Table 56⁶

| <u>Local Authority</u> | <u>White letting dwelling units</u> | | <u>Coloured letting dwelling units</u> | |
|--------------------------------|-------------------------------------|-----------------|--|-----------------|
| | <u>Sub-economic</u> | <u>Economic</u> | <u>Sub-economic</u> | <u>Economic</u> |
| City of Cape Town | 196 | 403 | 13 202 | 22 238 |
| Divisional Council of the Cape | - | - | 7 895 | 6 975 |
| City of Bellville | - | 461 | 861 | 532 |
| Durbanville | - | 12 | 130 | - |
| Goodwood | 60 | 254 | - | - |
| Kraaifontein | - | 1 | 35 | 178 |
| Kuils River | - | 18 | 147 | 334 |
| Parow | - | 565 | 100 | 1 164 |
| Pinelands | - | 4 | -- | - |
| | <u>256</u> | <u>1 718</u> | <u>22 370</u> | <u>31 421</u> |

Note: (1) A dwelling unit can be a house, a flat or a maisonette.

(2) The term sub-economic has been replaced by the term assisted housing but the term sub-economic was still in use when the 1979 Municipal Year Book was compiled.

(3) The local authorities listed have also provided home ownership houses, the details being Cape Town, 1 457 for whites and 5 325 for coloureds, Divisional Council of the Cape, 929 for whites and 4 861 for coloureds, Bellville, 134 for coloureds, Kuils River, five for coloureds and Parow, 152 for coloureds.⁷ This gives a total of 2 386 home-ownership houses for whites and 10 477 for coloureds.

5. From the above it will be seen that up to 1979 the total housing provision, by local authorities, was 4 360 dwelling units for whites and 64 268 dwelling units for coloureds. The provision of housing for these two groups accords with the economic status of those groups given in Chapter Three. The tendency seems to be for whites to obtain their own housing or to live in housing provided by private enterprise, and for coloureds to live in public housing schemes. According to research, approximately 15% of coloured housing needs are met by private enterprise.⁸ Table 56 also shows that the Cape Town City Council is the largest provider of public housing in Greater

Cape/....

Cape Town, having provided 62,39% of all public housing, with the Divisional Council of the Cape coming second with 30,10%. As far as coloured housing is concerned, Cape Town has provided 63,43% of the total, with the Divisional Council 30,70% of the total.

6. The housing problems of Greater Cape Town are bound up with the socio-economic status of the coloured people. As has been demonstrated in Chapter Three, far less land has been allocated for coloured residential areas than for whites, yet the coloured population is numerically larger than the white population and growing at a faster rate. This presents two problems, namely: (1) the shortage of housing for the existing coloured population; and (2) the housing that will have to be provided in the future. Allied to this is the problem of squatting, i.e., homeless people who build shantys known as pondoks because this is the only remedy open to them. The following reasons have been given for why people become squatters:

- 6.1 families who have been evicted for non-payment of rent or anti-social behaviour;
- 6.2 families who wish to live in a permanent dwelling, but are so poor that they cannot afford one;
- 6.3 families who wish to live in a permanent home but are unable to find one;
- 6.4 families who simply do not wish to live in the restrictive atmosphere of a council housing estate.⁹

7. It has been estimated that the total housing need for Greater Cape Town, after making allowance for a 15% private provision of housing, and the housing provided or to be provided at Mitchell's Plain, will be between 49 866 to 28 639 new dwelling units between 1980 and 1990, after schemes current during 1980 had been completed. Atlantis will provide less than one-third of all the new dwelling units required.¹⁰ During 1977 there were an estimated 6 656 squatter shantys in the Cape Town Municipal area, in which 37 257 persons were living.¹¹ There were 3 741

"registered"%...

"registered" squatters in the Divisional Council's area as at 26th March, 1981, but it should be noted that squatter structures have continued to be erected since 1975 when "registration" was introduced, i.e. the Divisional Council has demolished 6 069 "unregistered" shantys since 1975.¹² The policy of "registering" shantys was initiated at the end of 1974 by the Department of Community Development, the idea being that the occupants of "registered" shantys would be housed in housing schemes, while all "unregistered" shantys would be demolished.¹³ It is certainly a novel, if ruthless, way of solving the squatter problem. The Cape Town City Council and the Divisional Council have both made investigations into the incomes of squatters and sub-economic families in Elsies River as the following tables will show.

Distribution by Income of Squatters and Cape Town Tenants : Table 57¹⁴

| Monthly Income Range | Percentage of Total | | |
|-------------------------|----------------------------------|-----------------|------------------------------------|
| | Squatter families (late 1975) | | Council's Tenants (March, 1975) |
| | Household Head | Total Family | Household Head |
| Less than R100 | 60,7 | 47,2 | 43,8 |
| R100 - R160 | 27,1 | 28,4 | 25,8 |
| R160 - R200 | 5,9 | 10,8 | 13,0 |
| R200 - R260 | 2,9 | 6,7 | 10,1 |
| R260 - R320 | 3,0 | 4,1 | 5,3 |
| R320 - R400 | 0,3 | 2,7 | 1,9 |
| Over R400 | 0,1 | 0,8 | 0,1 |
| Average Income | R92 | R103 | R115 |

Income Survey of Sub-Economic families in Elsies River¹⁵

| Monthly Income | Number of Families |
|----------------------|--------------------|
| R 0 - R 90 | 1 436 |
| R 90 - R150 | 901 |
| R150 - R250 | 1 652 |
| R250 - R350 | 198 |
| R350 - R450 | 30 |
| R450 - R530 and over | 210 |

8. Various suggestions have been made to solve the housing and social problems of the coloured community, and these are summarised below:

- 8.1 The policy of measuring by arithmetic the extent of residential land necessary for the coloured population should be replaced by one of allowing far greater freedom of choice of residence and life-style, and greater mobility. Far more land should be set aside for the coloured community if the Group Areas Act is to be retained in its present form.¹⁶
- 8.2 Residential areas and housing programmes should be related to employment opportunities. The complexities are such that the housing of the growing coloured population can no longer be related to piecemeal planning and ad hoc decisions. Future programmes must be viewed at metropolitan level on the basis of an acceptable master plan.¹⁷
- 8.3 In terms of the Housing Code the tenant's income determines the rate of interest charged on the capital cost of his home, i.e., the lower the income of the head of the household, the less he pays and this means that the tenant has no incentive to earn more. Brand suggests that household income be the factor used in determining the rent to be paid, and more specifically, he suggests that this be the gross income, before tax, of the household head, plus 50% of the earnings of the spouse and 25% of the income of all other income-receiving members of the household. In addition the maximum percentage of household income which should be spent on housing should not exceed 20% for incomes up to R200 per month, with increases of 0,05% per Rand over R200 up to a maximum of 25%.¹⁸
- 8.4 There is a desperate need to increase the real earnings of workers but increases are not always accompanied by an equal rise in productivity. Improved housing and social conditions will lead to greater productivity and consequently, to higher incomes. Goals to improve productivity should include: better education and training/...

training; better use of labour resulting from more efficient management and organisation; more rapid technical progress; and incentives for the foregoing.¹⁹

- 8.5 The low-income section of the coloured community is tending towards an attitude where a house is expected as a right, with an almost grudging acknowledgment that as little rent as possible is to be paid in return. As a first step, people's attitudes to poverty and the poor must be changed: it must be realised that helping the poor is no longer a matter of subsidies but of social justice, and there is an urgent need to clarify national welfare goals.²⁰
- 8.6 Site and service schemes have until recently been rejected by the Central Government. However, there are signs recently that the Government will at least consider, if not accept, a less conventional approach to the provision of housing.^{20A} Here it might help to consider the question of self-help and what was done at Bras de Pina in Brazil will serve as a good illustration. While conventional housing was still offered, favela, that is, squatter, settlements were transformed. Under the pressures of the need for employment, the family head, known as a "bridge-header" would come to the town and build a conventional shanty in a settlement of these structures. What the authorities did was to work with the community in getting approval for a town plan, i.e., streets and services, after which the shanty owner was encouraged to improve his home through assistance given in different ways but all centred on the concept of self-build. The whole approach turned on home-ownership and the owner was encouraged to draw his own house plans and these were then checked and corrected by technical officials. Furthermore, there were no restrictions on trading from homes as a means of raising extra income, unlike the South African insistence on the rigid separation of different activities in physical land use zones. The authors of the report state that what was happening at favelas in Brazilian cities was the most interesting architectural and urbanistic process in the

whole/...

whole of Brazil. In the favelas answers were being developed to the problem of meeting poverty, under-development and traditional culture.²¹

8.7 Another suggestion surfacing more frequently is the idea of combating unemployment by means of the so-called cottage industry or "informal sector." A recent report by Dewar and Watson defines the informal sector as being concerned with small businesses with an important distinction between profit-orientated businesses and subsistence businesses, the latter being operations aimed at generating a certain level of profit in order to supplement the household income. In the conclusion to their report the authors suggest that, in order to stimulate and strengthen small businesses, excessively restrictive local authority by-laws and practices be withdrawn, current urban planning practices be changed to create maximum possible opportunities for employment creation, provision be made for small businesses at major opportunity points within cities, communal services, such as water, electricity and shelter be provided at centralised, well-located places for small businesses; that a National Development Bank be created to offer credit and loan facilities to small businesses using business judgment rather than collateral as the basis for granting loans; and that a wholesaling division be attached to the Bank to transport supplies to small retailers at competitive prices.²²

8.8 Commerce and industry should become involved in solving the squatter problem by aiding employees and raising their wages, and Shelter should use their funds to buy in bulk inexpensive but permanent building materials and re-sell them at cost for self-build schemes, and also grant small interest-free or low-interest loans to families engaged on a self-build scheme.²³

8.9 The second major concern with regard to coloured housing, i.e., apart from the provision of additional land, is the nature of the residential environment of existing coloured areas, notably the Cape Flats. It is necessary to alter the nature of the area from a unifunctional residential area to a multifunctional area

providing/...

providing a more comprehensive range of urban activities. The benefits of such a development would be an enhancement of the economic and social well-being of the residents of this area.²⁴

9. The local authorities in Greater Cape Town have achieved much in respect of the provision of housing for the coloured community but despite this there is a backlog to be eliminated and provision needs to be made for additional housing for thousands of families in the next twenty years. One of the problems is spatial, i.e., the provision of sufficient land and in this respect Government policy seems to be trending towards the creation of Atlantis as a coloured homeland, with all its political and social implications. The provision of housing goes beyond the mere production of houses. It has become clear in this study that the provision of housing needs to be linked with location near to job opportunities, the provision of job opportunities, solutions to poverty, crime and socio-economic depression and the creation of integrated, i.e., multifunctional residential areas. A great many of the solutions required lie in the hands of the Central Government, both because of the inherent duty of Parliament to ensure peace, order and good government and because a great deal of the legislation passed by Parliament has placed the necessary powers in the hands of the Central Government executive. Accordingly, the responsibility for land allocation, areas for the establishment of industry, education and training, higher earnings, law enforcement and the provision of funds to meet those needs and to provide housing, rests to a large extent on the Central Government. In addition, as will be shown in the next section, local authorities are increasingly struggling to meet the burden of meeting the costs of their services. There is a tendency, as was seen under planning, for the Central Government to dismiss some of these problems as being local, but, as the legislation creating centralised powers was the creation of Parliament and not local government, the Central Government should not be allowed to escape its responsibilities nor be allowed to evade accountability for its actions. This view re-inforces the need for a strong and vigorous local government in Greater Cape Town, a local government which, in exercising its representative function, identifies and isolates the problems that exist, and brings them pertinently before the Central Government.

FINANCE AND FINANCIAL SERVICES

10. Taxing Powers

The only tax a local authority may levy is prescribed by law, namely, a tax on the value of immovable property and known as rates. In the Cape Province the rates that municipal and divisional councils may levy are as follows:

Municipal Rates²⁵

- (a) A general rate not exceeding two cents in the rand.
- (b) An extraordinary rate if directed to do so by the Administrator, who also fixes the amount of this rate.
- (c) A health rate not exceeding one-half of the general rate for the purpose of meeting the council's share of expenditure on public health.
- (d) A water rate not exceeding one-half cent per rand for the purpose of meeting the deficit between revenue and expenditure connected with the supply of water.
- (e) A special rate not exceeding one comma seven five cents per rand, which must be advertised for public objection and approved by the Administrator, for the purpose of meeting the cost of any work or undertaking which in the council's opinion is for the special benefit of a portion or portions of the municipal area.

Divisional Council Rates²⁶

- (a) A general rate on immovable property in the divisional area and municipal areas in the division but in the municipal areas the rate is at least one-eighth per cent per rand lower than in the divisional area.
- (b) An extraordinary rate as directed by the Administrator, either for the whole divisional area or for a local area depending on circumstances.
- (c) A road rate not exceeding one-half cent per rand for meeting the cost of making, improving or repairing roads in a ward if petitioned thereto by a prescribed number of ratepayers.
- (d) A compensatory rate for the purpose of meeting any loan or other debt arising out of the incorporation of one divisional area into another divisional area.
- (e) A local area rate for the purpose of meeting the expenditure in a local area.
- (f) A health rate not exceeding one-half of the general rate for the purpose of meeting the council's share of expenditure on public health.

11. The valuations on which rates are levied are determined by valuers appointed by the Administrator,²⁷ in contrast to Natal and the Transvaal where the valuers are employees of the Council, and the Orange Free State where the valuers are appointed by the council.²⁸

12. Keeping of Accounts

Local authorities are required annually to frame estimates of revenue and expenditure for what can be called the operating budget, as well as estimates of anticipated capital expenditure. Also, such books of account as may be necessary to maintain a detailed record of all assets, liabilities and financial transactions, must be kept, and the Provincial Auditor has the power to prescribe what books shall be kept. After the estimates have been drafted they must be adopted at a special meeting convened for the purpose and signed by the mayor, town clerk and treasurer in the case of municipalities, and by the chairman, secretary and treasurer in the case of divisional councils. Thereafter a duly authenticated copy must be submitted to the Provincial Secretary, who may ask for further information, and furthermore, the amount of every rate fixed and an abstract of the estimates must be published in the press. If a council desires to depart from its operating budget or capital estimates, it must under certain circumstances obtain the Administrator's approval.²⁹

13. Sources of Revenue

As stated in paragraph 10 supra, a local authority may levy a variety of rates but these are not the only sources of revenue available to it. Cowden lists the following sources of revenue available to South African local authorities -

- 13.1 assessment rates, including grants in lieu of rates;
- 13.2 charges for goods and services;
- 13.3 profits from trading undertakings;

13.4/.....

13.4 Government and provincial subsidies;

13.5 interest;

13.6 licence fees and charges;

13.7 fines and forfeitures.³⁰

14. Of more importance than the mere recital of those sources is the question of the sufficiency of those sources of revenue for the functions and tasks required to be performed by local authorities. These issues will be dealt with after the questions of rating methods and exemptions from the payment of rates have been dealt with.

15. Methods of Rating

There are three systems of rating which may be used in South Africa, namely, site rating, flat rating and composite rating, sometimes also known as differential rating. The flat rating system is one where both land and the improvements made to the land are valued and then rated at one single, or flat, rate. With the site rating method the value of the land alone is valued, while with the composite system both the values of land and the improvements thereon are rated but not at the same rate, i.e. one rate for land value and another rate for building value.³¹

16. The following table illustrates the rating systems used by the local authorities in Greater Cape Town.

Rating/....

Rating Systems used by the Local Authorities in Greater Cape Town : Table 58³²

| <u>Local Authority</u> | <u>Rating System</u> | <u>Total Valuations</u> | <u>Ratable Valuations</u> |
|-----------------------------------|----------------------|-------------------------|------------------------------------|
| City of Cape Town | Flat | R3 335 561 473 | R2 401 052 527 |
| City of Bellville | Flat | R 505 617 240 | R 423 964 110 |
| Divisional Council of the Cape | Flat | R3 693 517 000 | Rural Area: R 226 803 500 |
| | | | Municipal Areas: R3 628 517 000 |
| | | | Total: R3 855 320 500 |
| Brackenfell | Composite | R 50 000 000 | R 46 000 000 |
| Durbanville | Site | R 67 581 885 | R 60 319 550 |
| Fish Hoek | Composite | R 47 729 210 | R 41 727 570 |
| Goodwood | Composite | R 221 887 890 | R 200 093 150 |
| Kraaifontein | Composite | R 8 054 562 | R 5 940 520 |
| Kuils River | Composite | R 67 224 100 | R 57 403 200 |
| Milnerton | Composite | R 211 647 196 | R 158 202 652 |
| Parow | Composite | R 361 779 710 | R 238 575 990 |
| Pinelands | Flat | R 76 351 100 | R 69 847 310 |
| Simon's Town | Composite | R 36 159 530 | R 14 902 340 |
| | | <u>R5 219 593 896*</u> | <u>R3 944 832 419</u> |

* Includes an assumed R230 million in respect of the Divisional Council.

17. The reason for the two columns, namely, total valuations and ratable valuations is that the relevant Ordinances provide for the exemption from the payment of rates of a wide range of property used, for example, for religious or welfare purposes, but the Ordinances also exempt State and Railway property except when this property is used beneficially by a third party, e.g., State land leased to a business.³³ As can be seen from Table 58 the exemption from rates in Cape Town, which has a wide variety of Government buildings, has resulted in the City Council not being able to levy rates on property valued at R934 508 946. This is probably not welcomed by the City Council but in the case of Simon's Town which has extensive Naval dockyard and other installations, the effect is devastating: out of a total valuation of R36 159 530, a total of R21 257 190 is not ratable. The legal basis of this state of affairs is to be found in legislation, namely, the State Property (Immunity from Rating) Act, 32 of 1931 and the Rating of Railway Property Act, 25 of 1959. Act 32 of 1931 does provide for payments being made to councils to meet some of the costs of servicing State property but the essence of the matter is whether this is a just policy.

18. There is unlikely to be any objection to religious, charitable or welfare bodies being exempted from paying rates but the exemption of State and railway property is an entirely different matter. The municipal tax base is extremely narrow, resting as it does on the ownership of immovable property and the ownership of property is in itself not necessarily an indication of wealth.³⁴ Cowden states that prior to 1910, and up to 1931, local authorities in the Cape and Natal received rates from the Government on a substantial proportion of Government properties. When Act 32 of 1931 was being debated in Parliament it was stated from the Government's side that Crown land occupied for public purposes was not ratable under the common law and the legislation was intended to rectify the situation. However, in Britain where Crown lands were exempt from rates, the Government has always contributed by way of grants the amount that would have been paid as rates.³⁵ Cowden also sets out the reasons given for and against the State paying rates on its property, as follows:

Against/...

Against the State paying
rates

- (a) State properties confer dignity and enhance local values.
- (b) State property is there to serve local functions.
- (c) Capital expenditure by the State confers a local benefit.
- (d) One governing body should not tax another governing body.
- (e) The State pays for direct services to its properties but cannot be expected to pay for the indirect services in an urban area from which it does not benefit.
- (f) Payments in lieu of rates would be inequitable because of different valuations and rating practices.
- (g) Private owners are able to participate in the unearned increment but the Government seldom sells its properties.
- (h) Comparisons with other countries do not help because the functions of local authorities in South Africa do not include education, police, etc.

For the State paying
rates

- (a) The rate on fixed property is the only tax legislatively permitted to local authorities and all who own property should pay the tax.
- (b) Although the rate is primarily a tax, it includes payment for certain services to property which cannot be measured, but which should be paid by all owners--Government buildings add to the cost of services just as much as private buildings.
- (c) Although local authorities want Government buildings, the exclusion of these from rating causes erosion of the tax base, particularly in towns with a high percentage of State or educational buildings.
- (d) If local authorities should not tax the State, the State should not tax local authorities, for instance, by way of customs duties, excise duties, stamp duties and fuel tax.
- (e) Payments in lieu of rates are founded on the basis of valuation, and are therefore a sound method of government subsidy compared with other cumbersome methods such as expenditure refunds.
- (f) Countries such as Britain and Canada use the system of payments in lieu of rates as a positive instrument for rendering financial assistance to local authorities.
- (g) The Government pays rates indirectly when it rents buildings in urban areas.
- (h) Private and semi-private buildings enhance values just as much as Government Buildings. ³⁶

After a detailed investigation into the functions of urban local authorities, which the Committee described as health, building control, town planning, roads and allied matters, street lighting, traffic control, housing, slum clearance, fire services, parks and recreation services, cultural institutions and activities such as libraries, museums, etc., aerodromes, the licensing of businesses, vehicles and drivers, the provision of water, electricity and gas, public transport, "Non-European" administration, public transport, markets and abattoirs, the Committee recommended that no changes be made to these functions.³⁸

21. When dealing with the sources of income of urban local authorities and the adequacy of those sources, the Borckenhagen Committee, after analysing in depth the expenditure and revenue of urban local authorities, came to the conclusion that as the burden of local taxation in relation to the ability of taxpayers to pay it, had been reduced through the Government becoming responsible for certain services, the Committee was unable to support the contention that urban local authorities were reaching the economic limits of property taxation, nor that it had become necessary to grant those local institutions additional sources of revenue. The cost of local authority services rose as a result of inflation, economic development, population growth and demands for improved and increased services and amenities. However, as costs rose, so did salaries and property values generally, and economic development and increases in population did not in the longer term create insuperable financial problems for local authorities. Although an area with an unduly large concentration of lower income groups could experience problems, these could be overcome through State housing subsidies. All urban communities should strive to achieve services and amenities within the limits of their financial resources.³⁹

22. With regard to additional sources of revenue for local government, the Borckenhagen Committee acknowledged that every form of taxation has its limitations, inequities and anomalies. In the selection of suitable revenue sources for local government, preference should be given to those sources which arose out of local conditions or out of

activities/....

activities which directly or indirectly imposed burdens and duties upon local authorities. The Committee stated that the following additional sources of income could be considered for local authorities:

22.1 - trade licensing. In terms of the Cape Registration and Licensing of Businesses Ordinance, 15 of 1953, local authorities in the Cape receive this revenue;

22.2 entertainment tax. Local authorities do not receive this form of revenue;

22.3 sales tax. This was not a firm recommendation as it was left to the Central Government to make the actual decision but the suggestion was that the Central Government should levy and collect the tax and distribute it on some suitable basis by way of grants to local authorities.⁴⁰ As is well known, the proceeds of the general sales tax finally established by the Government are retained by the Government.

23. As far as divisional councils were concerned, the Borckenhagen Committee recommended their retention because of historical reasons and the need to provide decentralised services at the local level and also recommended that divisional councils retain their power to tax property owners in municipal areas since, without a source of income, these bodies would become mere advisory bodies.⁴¹

The Browne Report

24. The other report referred to in paragraph 20 supra is the Report of the Committee of Inquiry into the Finances of Local Authorities in South Africa, usually referred to as the Browne Report. The terms of reference of this committee were to inquire into and report on the adequacy of the existing sources of revenue of local authorities; the nature of the financial and economic adjustments which are needed to establish a more satisfactory and durable relationship between municipal income and expenditure, and the extent to which economies in expenditure could be achieved by the establishment of

norms, the application of financial controls and other methods of promoting efficiency. The report starts by excluding divisional councils because these bodies:

- 24.1 were not mentioned in the original representations;
- 24.2 since 1971 divisional councils have been regarded as extensions of the Cape Provincial Administration and no good reason existed for modifying this arrangement;
- 24.3 the financial needs of divisional councils are fully taken into account in the allocation of subsidies to the Cape Provincial Administration, which is responsible for the apportionment of adequate subsidies to divisional councils;
- 24.4 divisional councils were peculiar to the Cape Province and it was up to that Province to effect adaptations to the financial, functional and administrative arrangements relating to divisional councils.⁴²

25. This startling display of ignorance could have been avoided by the authors of the Report if they had taken the trouble to consult Ordinance 18 of 1976, which establishes divisional councils as corporate bodies governed by an elected council, with powers of taxation and other powers essentially the same as municipalities.⁴³ It might have been hoped that, having got off to a bad start, the Report might have improved but unfortunately this was not the case. None of the members of the Browne Committee were connected with local government. The first eighteen pages of the Report deal with the need for a system of classifying local authorities, and from pages nineteen to sixty there is an analysis of the accounting systems and sources of income of local authorities. As the classification of local authorities does not seem to have been used to solve the problems at issue, its inclusion seems to be of dubious value. Chapters Nine to Thirteen of the Report prescribe or suggest improvements, but once again as will be demonstrated, these prescriptions or suggestions seem not only to be based on an ignorance of local government but also concentrate almost

exclusively/....

exclusively on the third term of reference relating to economies in expenditure. It is difficult to escape the conclusion that this was deliberately done to evade dealing with the need for subsidies to local government.

26. Space does not permit a full analysis of 86 pages of prescriptions and suggestions so that the selection given infra has been limited to what the author considers significant or important:

- 26.1 it was found that as the size of local authorities increased, there was a higher productivity in terms of efficiency and cost-effectiveness;⁴⁴
- 26.2 superordinate planning advisory committees should be established in metropolitan areas under the aegis of the provincial administrations, with mainly Government representation, together with Joint Services Committees, to overcome the financial and manpower problems in the establishment of separate local authorities for the "Non-White" population groups;⁴⁵
- 26.3 subordinate local government units should not be raised to full municipal status by the provincial administrations so as to ensure that the principle of joint services is applied as far as possible to urban and rural local authorities, and provincial administrations should enforce joint services by using their powers in relation to planning, the approval of townships and the consolidation of smaller local authorities;⁴⁶
- 26.4 provincial administrations should ensure that local authority internal organisation is re-structured to tie up each local authority's objectives with those of its departments. This should be linked with an in-depth re-appraisal of all functions to ensure effective guidance and advice at all levels. Particular attention should be paid to the personnel management department;⁴⁷
- 26.5 all local authorities should regularly review their internal organisation structure with a view to applying sound

organisational/....

organisational principles and techniques, and this task should be assigned to the personnel management department because job and duty description are closely tied up with that department's work. Where the control span exceeds eight departments, the organisation structure should be systematically investigated to ensure that it best satisfies the needs of the local authority and the requirements of sound organisational principles;⁴⁸ The question of span of control is discussed in paragraphs 44 to 47 of Chapter Eight;

- 26.6 greater attention should be paid to more delegation of powers and duties, and the management committee system in the Transvaal should be extended and these committees given executive powers due to the increase of activities in the larger cities and towns. On the other hand, the large city councils in the Cape and Natal which operate under the multiple committee system should investigate the advantages which the management committee system might bring;⁴⁹
- 26.7 the provincial administrations and the Institute of Town Clerks of Southern Africa should prepare a manual to enable a systematic approach to be taken to the training and induction of new councillors. Short courses for new councillors should also be arranged at convention centres;⁵⁰
- 26.8 the town clerk, as the chief executive, ought to be academically trained with emphasis on the basic importance of the scientific and financial management functions, and a qualification in urban administration or an equivalent qualification ought to be enforced, if necessary by law;⁵¹
- 26.9 the bigger local authorities should be encouraged to appoint qualified personnel specialists to manage personnel affairs, and to formulate a comprehensive personnel and labour policy based on objectives, under systematic in-house training facilities, and particular attention should be paid to the training

of/.....

of "Non-Whites". Appropriate professional and governmental bodies should determine what training facilities should be created. Furthermore, each local authority should give urgent attention to the improvement of productivity, with the application of practicable incentive schemes. The United Municipal Executive should co-ordinate employees' remuneration by drawing up guide scales linked to the size of the authority, the seniority of the post, the nature of the work, etc., but in close collaboration with the provincial administrations and the Commission for Administration;⁵²

26.10 the town clerks and town treasurers of local authorities should fully support the application of organisation and work study principles, and if a local authority refuses to accept the recommendation of a provincial organisation and work study team the matter should be referred to the National Productivity Institute for further investigation, and if the local authority still refuses to "co-operate", the matter should be referred to the Provincial Committee on Public Accounts;⁵³

26.11 the introduction of internal audit should be made compulsory by legislation;⁵⁴

26.12 the provincial administrations and the provincial municipal associations should give more attention to the application of programme budgeting systems and cost benefit analysis and other scientific techniques, and town clerks, treasurers and senior officials should be given training in these techniques;⁵⁵

26.13 to permit the establishment of viable local authorities for coloureds and asians a system of regular transfer payments from white to coloured and asian authorities should be introduced. The payments would be equal to the calculated need minus the ability to pay of the coloured and asian areas, and the calculations should be arranged through the Government's Department of Finance, but be administered through the provincial administrations. The system of transfer payments should

be integrated with the provision of joint services to white and "Non-White" local authorities and the payment and use--author's underlining--of such transfers should be under the general control of the provincial administrations;⁵⁶

- 26.14 the white local authority should not be permitted to make its transfer payment direct to the "Non-White" local authority to avoid the impression of one race group subsidising another race group. Instead, transfer payments should be made monthly to the Department of Finance. For the years 1977/1978, it was calculated that an amount of R148,3 million would be required;⁵⁷
- 26.15 the creation of separate coloured and indian local authorities is described as a policy of disengagement. White local authorities should train the coloured and indian personnel required but their salary levels should be controlled by the provincial administrations and the whole process should be supervised by these administrations and Government departments, although if things go seriously wrong one of the suggested remedies is to instruct another local authority, presumably "white", to deal with the matter;⁵⁸
- 26.16 the financial problems of local authorities stem from the rapid development of the country and the need to uplift less privileged population groups, leading to requests for subsidies, financial relief, tax exemptions or more and larger revenue sources. Some of the suggestions made to meet these problems, which were acknowledged to exist, were: regional joint water and sewage--presumably sewerage--boards should be established and co-ordinated with the joint services boards mentioned supra so that some subsidy could be given to local authorities; standards should be set for abattoirs to effect savings; the subsidy for fresh produce markets should be retained; a partial subsidy should be given on fire services; local authorities should integrate their objectives on water provision with those of the Government, with the possible establishment of

regional/.....

regional water boards; and the subsidy paid on ambulance services, which are the responsibility of the provincial administration but are operated on an agency basis by local authorities, should be reduced by 12,5% because an excessive subsidy would not be in the interests of sound financial control and policy;⁵⁹

26.17 the State and the Railways should not pay municipal rates because the view that local government is an integral part of the government sector is a theoretic or puristic view but on the other hand local authorities should not be exempted from the payment of sales, customs and excise taxes. The rationale seems to have been that a substantial portion of any relief granted would go into officials' salaries, income tax would increase, the State, rail and postal services do valuable development work, the administrative work would be too involved, and constitutionally the State cannot be taxed. Taking 1977/1978 as a benchmark year, the Committee gave some interesting figures. If local authorities were exempted from sales, customs and excise taxes, they would save R45,5 million--this was described as a modest sum. The Government would, during 1977/1978, have paid compensation in lieu of rates amounting to R6,2 million to local authorities, whereas if it had paid full rates, the amount would have been R53,9 million. However, a revised formula for compensating local authorities was recommended but it was not stated whether this would increase the compensation;⁶⁰

26.18 local authorities should continue to operate, and even to increase the types, of trading services, e.g., water or electricity, but should not be permitted to fix tariffs which make a profit in relief of rates. Tariffs should be fixed to tie in with national policy, although a certain amount of profit-taking, up to 10%, could be permitted;⁶¹

26.19 the manner in which property rates are levied should come under closer control by the provincial administrations, which should

promote/....

promote uniform national legislation, and provide guidance and insist on explicit policies. At the same time these policies should leave a measure of flexibility as well as promoting home-ownership.⁶²

27. It is submitted that the authors of the Browne Report did not have sufficient knowledge of or insight into the nature of local government or how it operates, or if they did have these qualifications, that they chose to convert their enquiry from one into the finances of local government into an exercise to establish firm central control over all the meaningful aspects of local government without the State accepting any financial responsibility. It has become clear in this study that local government, while it has the functions of government and representation, and while it is admittedly the weakest tier of government as far as powers are concerned, is yet different from all other tiers of government in respect of the personal services it renders and its consequential close relationship with its citizens. It can also be added that local governments vary widely in area, size, wealth and services since each community is, to a greater or lesser extent, unique. Of the prescriptions and suggestions which emanated from the Browne Committee, it is clear that that body, by recommending planning, advisory and services bodies--see paragraphs 26.2, 26.3 and 26.13 supra,--for example, showed ignorance of the fact that successful local government comes about because of the co-ordination, and not the fragmentation of services. The democratic representation aspect was also ignored, presumably because of ignorance about it.

28. Similarly, in paragraph 26.6 supra, which deals with the multiple committee and management committee systems, the authors of the Report were apparently unaware of the views of the Marais, Slater and Maud Committees and the sometimes vehemently expressed views of the need for the co-ordination of local government as a totality of local services. Their manner of expression portrays cloudy thinking. To enjoin the larger local authorities to practice correct organisational principles and techniques, personnel management, in-service training/.....

training, organisation and work study principles, internal audit, programme budgeting systems and cost benefit analysis, when the larger local authorities already practice some or all of these techniques indicates not only the superficiality of the investigation but also a contemptuous attitude--see paragraphs 26.4, 26.5, 26.8, 26.9, 26.10, 26.11 and 26.12 supra. The Cape Province Municipal Association was constrained to state that the principles of organisation and work study, for example, had been applied in local government for years, and that the Report in general appeared to be an indictment of local government instead of making recommendations on the improvement of sources of revenue.⁶³

29. The Browne Committee did not recommend any financial relief to local authorities although it could have recommended relief, which based on 1977/1978 calculations, would have amounted to R99,4 million--see paragraph 26.17 supra. Instead the Committee recommended--see paragraphs 26.13 and 26.14 supra--that to enable the Government to establish segregated local authorities, the white local authorities should contribute R148,3 million, which would be paid to and distributed by the Government. This figure of R148,3 million is significant in that it represents the cost of segregated local government, and as fragmentation increases costs it must be accepted that without segregated local government, costs would be lower. The amount is significant also in that it indicates the degree to which funds are required to assist the coloured and asian populations to achieve local growth and development but the Committee, instead of facing the Government with this problem, chose instead to recommend that the property owners of South Africa should subsidise a cost which should be shared by all the taxpayers of the Republic through sharing the revenue from income and sales taxes. It is interesting to note that Government income tax receipts for the 1980/1981 tax year were R1 432 million or 26% more than for the previous tax year, and that the receipts from the general sales tax were R411 million or 33% more than the previous year's receipts. In the same period customs duty was R282 million or 62% over the previous year. Taking these and other sources of income for the 1980/1981 tax year, the Government

received/.....

received a total of R12 486 million in comparison with R9 437 million for the previous tax year.⁶⁴ The City Treasurer of Cape Town pointed out to his Council that if the recommendations of the Browne Committee were adopted, the burden on Cape Town's ratepayers could be substantially increased.⁶⁵

Government Action

30. Initially, the Minister of Finance indicated his agreement with the Browne Report and he is reported to have stated that the Report was authoritative and would long remain a standard reference work on local authority statistics and finance.⁶⁶ However, it is understood that complaints were made from a number of sources--for example, the Administrator of the Cape is reported to have described the report as disappointing and to have expressed the hope that the government would make additional sources of revenue available to local government.⁶⁷ However, it appears that the Government is holding discussions with municipal associations,⁶⁸ while the Administrator of the Cape has stated that both he and the Cape Provincial Executive Committee had lodged strong objections to the Browne Report, and the Minister of Finance had appointed a working committee to continue the function of the Browne Report.⁶⁹ When the Minister of Finance delivered his 1981 Budget speech he announced that the Government would pay rates to local authorities, less a 20% rebate.^{69A} Until the legislation is introduced it is not possible to give more detail.

Revenue and Expenditure of Local Authorities in Greater Cape Town.

31. The revenue and expenditure of the local authorities in Greater Cape Town gives some idea of their economic weight as well as an idea of the economic strength of local government in the area. The consideration of this matter is allied with the number of employees and the salary and wage bill.

Revenue/....

Revenue and Expenditure for the local authorities in Greater Cape Town : Table 59/70

| Local Authority | Operating Budget | | Gross Capital Expenditure |
|--------------------------------|---------------------|---------------------|------------------------------|
| | Gross Revenue | Gross Expenditure | |
| City of Cape Town | R174 487 354 | R168 544 856 | R108 842 640 |
| City of Bellville | 8 544 579 | 8 143 860 | 4 586 602 |
| Divisional Council of the Cape | 40 179 380 | 40 179 380 | 56 499 618 |
| Brackenfell | 1 374 816 | 1 506 528 | 520 472 |
| Durbanville | 1 682 272 | 1 564 720 | 400 981 |
| Fish Hoek | 736 625 | 977 309 | 179 084 |
| Goodwood | 3 508 018 | 3 509 743 | 638 762 |
| Kraaifontein | 3 065 586 | 2 723 131 | 1 115 291 |
| Kuils River | 1 649 350 | 1 566 885 | 702 239 |
| Milnerton | 4 165 775 | 4 154 389 | 2 225 013 |
| Parow | 7 447 902 | 7 242 143 | 6 574 685 |
| Pinelands | 1 490 714 | 1 310 424 | 823 534 |
| Simon's Town | 998 346 | 904 414 | 225 630 |
| | <u>R249 330 717</u> | <u>R242 327 782</u> | <u>R183 334 551</u> |

Number of local authority employees in Greater Cape Town and their cost : Table 60⁷¹

| Local Authority | Labouring and semi-skilled | | Skilled and semi-skilled Technical | | Clerical and Administrative | | Professional | | Cost (1979/80) |
|--------------------------------|----------------------------|--------|------------------------------------|-------|-----------------------------|-----|--------------|---|----------------|
| | W | C | W | C | W | C | W | C | |
| City of Cape Town | 5 | 7 520 | 1 366 | 2 305 | 1 687 | 435 | 318 | 7 | R55 370 680 |
| City of Bellville | 55 | 538 | 20 | 3 | 170 | 30 | 12 | 1 | R 2 885 056 |
| Divisional Council of the Cape | - | 3 000 | 562 | 175 | 425 | 106 | 72 | 1 | R10 495 746 |
| Brackenfell | - | 40 | 17 | 4 | 20 | 1 | 1 | - | R 375 252 |
| Durbanville | Information not supplied | | | | | | | | |
| Fish Hoek | - | 58 | 4 | 2 | 20 | 3 | 7 | - | R 431 849 |
| Goodwood | 3 | 186 | 19 | 24 | 81 | 11 | 6 | - | R 1 296 802 |
| Kraaifontein | Information not supplied | | | | | | | | |
| Kuils River | - | 1 | 2 | - | 29 | 5 | 3 | - | R 441 660 |
| Milnerton | 1 | 19 | 74 | 21 | 34 | 17 | 11 | - | R 1 599 940 |
| Parow | 10 | 300 | 9 | 15 | 160 | 10 | 11 | - | R 1 833 525 |
| Pinelands | - | 36 | 2 | 13 | 45 | 3 | 2 | - | R 603 770 |
| Simon's Town | - | 83 | 10 | 12 | 15 | - | 6 | - | R 241 822 |
| | 74 | 11 781 | 2 085 | 2 574 | 2 686 | 621 | 449 | 9 | R75 576 102 |

Total employees and their cost, per local authority : Table 61⁷²

| <u>Local Authority</u> | <u>Total Employees</u> | <u>Cost (1979/80)</u> |
|-----------------------------------|------------------------|-----------------------|
| City of Cape Town | 13 643 | R55 370 680 |
| City of Bellville | 829 | R 2 885 056 |
| Divisional Council of the Cape | 4 341 | R10 495 746 |
| Brackenfell | 83 | R 375 252 |
| Fish Hoek | 94 | R 431 849 |
| Goodwood | 330 | R 1 296 802 |
| Kuils River | 40 | R 441 660 |
| Milnerton | 177 | R 1 599 940 |
| Parow | 515 | R 1 833 525 |
| Pinelands | 101 | R 603 770 |
| Simon's Town | 126 | R 241 822 |
| | <u>20 279</u> | <u>R75 576 102</u> |

Average earnings per employee = R3 726,81

32. Tables 59 to 61 illustrate the economic strength and importance of local government in Greater Cape Town as well as the extent to which local government can offer employment. The statistics given in Tables 59 to 61 are based on information in respect of 1979, except in the case of the Divisional Council of the Cape where information relating to 1980 was given. Government estimates of the Gross Geographic Product for the Western Cape for 1975 were R3 204 000 000,⁷³ and while the Western Cape is larger, both spatially and economically, than Greater Cape Town, it is interesting to note that local government gross revenue for 1979, namely, R249 330 717, amounts to 12,85% of the total estimate. Another unavoidable fact to be considered when searching for new constitutional and organisational forms of local government in Greater Cape Town is that only two of the thirteen local authorities, namely, the City of Cape Town and the Divisional Council of the Cape, are of any real economic or organisational significance, and of the two, the City of Cape Town far outstrips the Divisional Council in function, sophistication of services and willingness to innovate.

33. When the time arrives to frame a new local government constitution great care will have to be exercised to ensure that, in the pursuit of an ideal municipal solution, the civic strength of the City of Cape Town, and its economic utility to the region it serves, is not disturbed to the extent that the advantages which at present exist are dissipated or lost. The gross revenue of the City of Cape Town, at R174 487 354, amounts to 69,98% of the total gross revenue of the metropolitan area, and the City of Cape Town's gross expenditure of R168 544 856 amounts to 69,55% of the total. The next table indicates the relative cost effectiveness of the local authorities reflected therein in respect of revenue and expenditure per head of population and in relation to total employees.

Effectiveness/.....

Effectiveness Comparisons in respect of the local authorities in Greater Cape Town : Table 63⁷⁴

| Local Authority | * Total Population | Revenue per head of population | Expenditure per head of population | No. of em- ployees per head of population | Average cost per employee |
|-----------------------------------|-----------------------|--------------------------------------|--|--|------------------------------|
| City of Cape Town | 786 610 | R221,82 | R214,27 | 57,66 | R4 058,54 |
| City of Bellville | 78 000 | R109,55 | R104,41 | 94,09 | R3 480,16 |
| Divisional Council of the Cape | 289 900 | R138,60 | R138,60 | 66,78 | R2 417,82 |
| Brackenfell | 6 502 | R211,45 | R231,70 | 78,34 | R4 521,11 |
| ØDurbanville | 12 630 | R133,20 | R123,89 | - | - |
| Fish Hoek | 7 630 | R 96,54 | R128,09 | 81,17 | R4 594,14 |
| Goodwood | 29 010 | R120,92 | R120,98 | 87,91 | R3 929,70 |
| ØKraaifontein | 29 426 | R104,18 | R 92,54 | - | - |
| Kuils River | 13 000 | R120,87 | R120,53 | 325,00 | R11 041,50 |
| Milnerton | 21 550 | R193,31 | R192,78 | 121,75 | R9 039,21 |
| Parow | 70 100 | R106,25 | R103,31 | 136,12 | R3 560,25 |
| Pinelands | 11 500 | R129,63 | R113,95 | 113,86 | R5 977,92 |
| Simon's Town | 5 800 | R172,13 | R155,93 | 46,03 | R1 919,22 |
| Averages on Totals | 1 361 658 | R183,11 | R177,97 | 67,15 | R3 726,81 |

* White, coloured and asians only are given as municipal authorities have no jurisdiction over, and hence have no inherent right to render services to blacks.

Ø Durbanville and Kraaifontein did not participate in the survey and the information is thus not complete. However, these towns are not large and their non-participation in the survey is not considered significant.

34. At first sight it seems that the City of Cape Town, and to a lesser extent the Divisional Council of the Cape, are far less cost-effective than their municipal counterparts in the region but this is a superficial judgment. In general, it can be expected that there should be economies of scale commensurate with the size of the undertaking and the size of the population. However, the following factors are submitted to show that a purely statistical analysis can lead to an incorrect impression:

- 34.1 between them, the City of Cape Town and the Divisional Council of the Cape have in their respective areas 770 410 out of a total coloured population of 842 827, and it has already been demonstrated that the coloured population is economically disadvantaged and requires subsidies for its services. This aspect, namely subsidies will be dealt with in more detail infra;⁷⁵
- 34.2 the City of Cape Town provides and operates the market and abattoir for the region, supplies water to all the other local authorities and apart from ESCOM, generates electricity and supplies power to some of the other local authorities. To some extent the Divisional Council also supplies services on a metropolitan basis. All these services not only require extensive amounts of capital, to be repaid in the form of loans, but they also give rise to operating costs and the need for more staff;⁷⁶
- 34.3 the City of Cape Town and the Divisional Council provide health services to Greater Cape Town except for Brackenfell, Kraaifontein and Kuils River, which also involves additional staffing and costs;⁷⁷
- 34.4 the City of Cape Town is the major provider of amenities in the region.⁷⁸

35./.....

35. It is therefore a reasonable conclusion that the City of Cape Town, and to some extent the Divisional Council are both fulfilling a regional role but that the financial burden is not being equitably distributed. Thus Cape Town has 57,66 employees per head of population for its own area, and an expenditure of R214,27 per head of population for its own area, yet as the core of the metropolis it must show the initiative, and bear the risks, of providing regional services but without any direct means of recovery from the populations which share in the use and the utility of these services. The position of the Divisional Council is similar but with one important difference, namely, that it has the power to levy a general rate on the ratepayers of the municipalities within its area. When the population, expenditure, total employees and the cost of those employees in Greater Cape Town are averaged then it will be seen from the end of Table 62 that the expenditure of R177,15 per head of population, the number of employees per head of population of 67,15 and the average cost per employee of R3 726,81 are the metropolitan average, and that a rational system of metropolitan government should bring some relief to the ratepayers of Cape Town. The reverse, or increase in cost to the ratepayers in other areas, while it is not likely to be popular, can be justified on the basis that those residents of the region should pay a true share of the cost of the services they enjoy. It is submitted that none of the inhabitants of these areas would be able to enjoy the services they do, and at the costs they pay, were it not for their proximity to the City of Cape Town.

The Lack of Financial Viability of Coloured Areas.

36. The recommendation at the end of Chapter Two, for the reasons stated there, is that the coloured municipal franchise should be restored but it is also stated in paragraph 34 of Chapter Two that the financial problems will remain. It was also stated at the end of Chapter Three--see paragraphs 55.5 to 55.11--and proved in that Chapter, that the coloured community is economically, educationally and socially in a disadvantaged position in relation to the whites.

The/.....

The Browne Committee estimated that R148,3 million would be required to establish viable separate coloured and indian municipalities throughout the Republic--see paragraph 26.14 supra. To round out the picture it is necessary to try and establish the extent to which coloured areas in Greater Cape Town are subsidised from the rate fund but as complete municipal accounts are not kept according to group areas, this is difficult. However, the Divisional Council of the Cape has, by law, to keep separate sets of estimates for each local area and an examination of the Divisional Council Estimates of Revenue and Expenditure should reveal the position. To some extent the City of Cape Town keeps separate accounts for its management committee areas, and although the whole coloured population of the City of Cape Town is not contained in the management committee areas, these figures may also prove of some value.

The/...

The Financial Viability of Coloured Local Areas in the Cape Division : Table 63⁷⁹

| Local Area | Estimated 1979 Population | Total Income from Local Area Rates | Total Cost of: | | Amount of Subsidy |
|------------------|---------------------------------|--|-----------------------|-------------------|--------------------------|
| | | | Municipal Services | Other Services | |
| Belhar | 9 350 | R 261 978 | R 242 298 | R 2 475 | R 17 316 |
| Elsies River | 92 550 | R 926 148 | R1 314 074 | R 75 520 | R 451 472 |
| Grassy Park | 44 870 | R1 098 834 | R1 594 961 | R 56 620 | R 546 201 |
| Hout Bay Harbour | 7 930 | R 131 337 | R 110 339 | R 12 236 | R 3 514 (surplus) |
| Matroosfontein | 5 800 | R 66 714 | R 69 687 | R 9 100 | R 10 001 |
| Nooitgedacht | 4 560 | R 57 468 | R 61 233 | - | R 3 765 (surplus) |
| Ocean View | 8 960 | R 105 272 | R 121 299 | R 23 125 | R 36 113 |
| Atlantis | 12 000 | R 284 342 | R 258 630 | R 48 490 | R 51 535 |
| | 141 150 | R2 932 093 | R3 772 521 | R227 566 | R1 112 638 (net subsidy) |

- Note:
- (1) Population estimates do not take into account overcrowding, i.e. more than one family living in a house.
 - (2) The surplus at Hout Bay Harbour is attributed to the fact that, unlike other coloured local areas, this area includes factories.
 - (3) Nooitgedacht, in 1979, had no civic amenities and this factor is considered to be the reason for the surplus.
 - (4) By arrangement with the State the annual deficits for Atlantis are not recovered from rates but are accumulated.

37. Table 63 shows conclusively that, except where there are extraordinary circumstances such as the presence of industries in a coloured local area, or where civic facilities have not been provided for a small area such as Nooitgedacht, coloured local areas not only cannot afford civic amenities but also cannot afford to pay for normal municipal services. The reasons for this inability to raise sufficient revenue to pay for services are, it is submitted, as follows:

- 37.1 in general the incomes of coloured people are much lower than those of whites--see Tables 30 and 31 in Chapter Three;
- 37.2 most of the housing for coloured people is provided in terms of the Housing Code and the present maximum cost limit of R18 500 does not lead to high valuations--see paragraphs 3.1 to 3.6 supra;
- 37.3 the valuation of immovable property for rating purposes in coloured areas is accordingly lower than in white areas. For example, in 1979 there were 2 972 homes in the Constantia Local area and 7 163 homes in the Grassy Park Local Area, while the total valuations for these areas were R73 589 000 and R28 064 000, respectively. The average valuation per house in Constantia was R24 760,77, whereas in Grassy Park the average valuation was R3 917,91.⁸⁰ The amount of the rate, i.e. one or two or more cents in the Rand is thus largely irrelevant since it is the low valuations which prevent the generation of sufficient revenue to support the services required;
- 37.4 the coloured contribution to taxes and rates is consequently insufficient to support ordinary municipal services--see Tables 29 and 34 of Chapter Three; paragraph 4.2.7 of Chapter Two; and paragraph 26.13 supra.

38. The impact of Table 63 can be more pertinently expressed as will be shown in Table 64 infra.

An/.....

An analysis of the Subsidisation of Coloured Local Areas in the Cape Division : Table 64 ⁸¹

| <u>Local Area</u> | <u>Estimated 1979 Population</u> | <u>Subsidy per head of pop.</u> | <u>Are there civic amenities</u> | <u>Average:</u> | |
|------------------------------|--|-------------------------------------|--|--------------------------------|---|
| | | | | <u>Valuation per house</u> | <u>Rate income per head of pop.</u> |
| Belhar | 9 350 | R1,85 | Yes | R4 252 | R28,02 |
| Elsies River | 92 550 | R4,88 | Yes | R2 165 | R10,00 |
| Grassy Park | 44 870 | R12,17 | Yes | R3 917,91 | R24,49 |
| Hout Bay Harbour | 7 930 | - | Yes | R3 154,76 | R16,56 |
| Matroosfontein | 5 800 | R1,72 | Yes | R2 677,14 | R11,50 |
| Nooitgedacht | 4 560 | - | No | R1 331,86 | R12,60 |
| Ocean View | 8 960 | R4,03 | Yes | R 588,72 | R11,75 |
| Atlantis Residential Area | 12 000 | R4,29 (deficit) | Yes | R 710,90 | R23,66 |
| Total = | 186 020 | | | | |
| Averages | | R8,65 | | R2 349,79 | R20,77 |

39. As the local areas tabulated above are in varying stages of development and with varying levels of service as far as municipal services and civic amenities are concerned, it is considered justifiable to work on averages. At an average subsidy rate of R8,65 per coloured person from rates, and taking the estimated coloured population of 861 839 for Greater Cape Town given in paragraph four of Chapter Three, then the total amount by which the coloured population is being subsidised from municipal rates can be estimated at R7 454 907, which amounts to 2,90% of the total income of R249 330 717 given in Table 59 supra. However, the problem goes beyond the present subsidy: according to a survey done in 1976 by the Divisional Council of the Cape, the residents of its coloured areas required nine community centres, eleven sportsground complexes, two swimming baths, eight libraries, 42 childrens' playgrounds, 30 creches and three civic halls at an estimated capital cost at the time of R6 444 350.⁸² In a subsequent, more detailed survey done in 1978 into the needs of Elsies River and Grassy Park, the Divisional Council established that between 1980 and 1984 these two areas would require landscaping work to be done to upgrade the appearance of these areas, as well as to be provided with two markets, seven community centres, ten sportsfield complexes, two swimming baths, three libraries and five civic halls at a total estimated capital cost at the time of R9 728 669. The Divisional Council further estimated that by 1984, even allowing for an increase in local area rate income, Elsies River and Grassy Park would require a combined total subsidy of R6 200 688.⁸³ The potential populations for Elsies River and Grassy Park are 75 000 each, and assuming that these potentials are reached by 1984, the subsidies payable from the general rate fund would increase, per head of population, from R4,88 to R29,86 in the case of Elsies River, and from R12,17 to R52,81 in the case of Grassy Park. The problem does not therefore turn on the present subsidy which, based on the estimate given, only amounts to R2,90% of total revenue but on the cost of the future needs of the coloured areas, which have to be subsidised for local services but

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those areas do not also contribute financially to general services such as traffic, town planning, main roads, etc.

40. The City of Cape Town, as stated, does not keep completely separate records for its coloured areas as does the Divisional Council of the Cape for its local areas, but the City Council does keep separate records for part of the expenditure incurred in respect of its management committee areas, i.e., the estimates will reflect those items of expenditure which are directly imputable to those areas but not items such as fire, traffic, town planning, abattoir, market, etc. Table 65 infra sets out this position.

Revenue/.....

Revenue and Expenditure in respect of Management Committees in the Cape Town Municipal Area : Table 65. ⁸⁵

| Service | Rylands | | Athlone | | Wynberg | | Kensington | |
|-----------------------|---------|----------|------------|-------------|----------|-----------|------------|------------|
| | Rev. | Exp. | Rev. | Exp. | Rev. | Exp. | Rev. | Exp. |
| Administration | - | R 8 370 | - | R 24 010 | - | R 18 430 | - | R 17 435 |
| Bathing and Amenities | - | - | R 17 045 | R 160 595 | - | - | R 3 630 | R 86 675 |
| Cleansing | - | R 66 930 | - | R 1 405 970 | - | R 166 920 | - | R 168 970 |
| Halls | - | - | R 93 545 | R 700 695 | R 1 000 | R 23 560 | R 4 750 | R 71 895 |
| *Health | - | - | R 505 780 | R 962 830 | R 26 300 | R 40 370 | R 66 340 | R 112 620 |
| Housing | R2 635 | R 11 545 | R7 032 135 | R 7 127 330 | R326 740 | R 83 190 | R362 025 | R 323 625 |
| *Libraries | R2 245 | R 4 500 | R 267 585 | R 533 285 | R 42 220 | R 83 440 | R 43 095 | R 85 790 |
| Parks and Forests | - | R 60 510 | R 20 737 | R 719 140 | R 725 | R 77 725 | R 2 860 | R 105 250 |
| Street Works | - | R 49 365 | - | R 479 110 | - | R 42 255 | - | R 80 240 |
| | R4 880 | R201 220 | R7 936 827 | R12 112 965 | R396 985 | R535 890 | R482 700 | R1 052 500 |

* Indicates that Government and Provincial subsidies are included in revenue.

41. The total revenue in Table 65 amounts to R8 821 392, while the total expenditure amounts to R13 902 575, leaving a shortfall of R5 081 183 to be recovered from the rate fund. Although the City of Cape Town does not reflect rate income according to area in its estimates, the Estimates used to compile Table 65 under the heading Finance--Assessment Rates, indicate a contribution of R2 358 400 from housing schemes in lieu of rates. As a substantial number of coloured people in Cape Town live in scheme houses, 225 655 according to official sources,⁸⁶ it is a reasonable inference to conclude that the coloured population accommodated in housing schemes in the City of Cape Town is subsidised by other ratepayers.

The Issue of Rate Subsidies to the Disadvantaged.

42. Subsidies for services relate to two main issues, the first being whether any person ought to be given a subsidy for a service he cannot afford, and the second being whether subsidies, if they are to be paid in respect of municipal services, ought to be funded by municipal taxpayers, i.e., owners of immovable property, or by all taxpayers. On the first issue no law or legal rule could be found which creates a right to a subsidy with the resultant conclusion that if a subsidy is paid, the payment is not made because of a legal prescription. In other words, subsidies are paid for reasons other than legal compulsion. In discussing subsidies it is necessary to draw a clear distinction between subsidies paid by the two higher tiers of government for services such as roads, libraries, public health, ambulances, etc. These subsidies, when paid, are not based on the relative wealth or poverty of the recipient population but in pursuance of some policy by a higher tier of government, i.e., the formula used may relate to service areas, total population, the need for communications and so on but will not be based on the earning capacity of the population served. The term subsidy, as used here, relates solely to the provision of services at a level or of a type beyond the capacity of the recipients to pay for them.

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43. Although writings exist on the under-provision of services to disadvantaged population groups, no definitive views or research could be traced as to why such services should be subsidised and the basis and extent of the subsidy. The fact that a subsidy would have to be paid simply seems to have been accepted, with the argument usually centering on who should pay.⁸⁷ As subsidies are paid, and as these payments do not derive from law, the basis for them must be sought elsewhere. One argument could be that the fact of subsidies stems from the Judaeo-Christian ethic of loving or caring for your neighbour and while this may historically be true, present-day society consists of many religions, as well as unbelievers, yet the universal trend is to subsidise the poor and the needy.⁸⁸ For the purposes of this study it is essential to establish whether a basis for subsidies exists, because the success or failure of the constitutional model that will be recommended in Chapter Seven will depend on the extent to which subsidies are available, and there is a tendency to delay reform because of the lack of viability of coloured areas as can be seen, for example, from the Rossouw and Botha Reports analysed in Chapter Two.

44. It is suggested that the following consequences will ensue if local government is unable to provide or is prevented from providing necessary municipal and social services to the coloured population of Greater Cape Town:

- 44.1 increased crime in an area where crime is already a problem, as disclosed in Chapter Three;
- 44.2 increased racial friction as the criminals will tend to be coloured and the victims to be white;
- 44.3 an unmanageable housing problem, with squatting becoming the norm;
- 44.4 a public health crisis in both white and coloured areas because of squatting and a general degeneration of services in coloured areas;

44.5/.....

- 44.5 an increase in the "dependence syndrome" as coloureds increasingly rely on public and private welfare agencies for aid or hand-outs. This "dependence syndrome" is already to be detected and its growth will seriously hamper the development of the coloured people, and results in increased paternalism, which in turn will lead to more friction;
- 44.6 as the general rate of development of the coloured people declines, and if they do not emigrate from the area, the growth required by commerce and industry will also decline in the sense of the labour available not being adequately educated and trained. If substantial numbers of coloured people emigrate from the area, commerce and industry will again be faced with a labour problem; and finally
- 44.7 the white community will be unable to escape the financial, health and social consequences which will inevitably ensue and apart from becoming involved in social unrest and probable rioting, they will be unable to obtain security.

45. Once the consequences of failing or refusing to provide subsidies are outlined, the main basis for doing so becomes self-evident, and this can be described as self-interest or a survival goal. While there will undoubtedly be those in local and central government who would agree to subsidies for religious or ethical or moral reasons, it is likely that the majority of whites in Greater Cape Town, when faced with the consequences, will opt for subsidies out of self-interest. As far as that goes, it does not matter what motive is at work as long as the means are given to establish effective local government and a prosperous local economy for all.

CONCLUSION

46. Chapters Four and Five give an insight into the nature, strengths and weaknesses of local government in Greater Cape Town. The leading impressions gained from these Chapters can be summarised

as/.....

as follows:

- 46.1 local government in Greater Cape Town follows an evolved system based on specialisation in organisation, corporate decision-making by elected councillors, usually by means of committees with executive functions in conjunction with full council meetings, and renders a variety of services. Only whites are permitted by law to participate in local government in a meaningful way;
- 46.2 there is no apparent reason for the way in which, in the past, separate local authorities came into existence, other than circumstance, i.e., the establishment of local authorities was not planned according to a set of goals. The existing hierarchy of local authorities is illogical and hampers optimum effectiveness;
- 46.3 the Provincial controls over local government are so tight that little administrative latitude exists, which in turn makes accountability a problem in that the decisions of locally elected representatives can be amended or reversed by the bureaucracy of the second tier of government;
- 46.4 similarly the doctrine of ultra vires prevents innovation and experiment at local government level;
- 46.5 constitutionally local government has no guaranteed autonomy but the conflict is not seen so much as a desire for autonomy in the constitutional sense, something which is not compatible with a unitary state, but rather with the multitude of unnecessary and irritating bureaucratic controls;
- 46.6 the accountability of local councillors can be improved by the use of the management or executive committee system;
- 46.7 the range of services rendered is wide but not all local authorities render all these services--the size of the local authority and the nature of population are determining factors as far as services are concerned;

- 46.8 a start has been made in the regionalisation of services but this has not happened according to some plan but rather through circumstance;
- 46.9 it is clear that the City of Cape Town, followed by the Divisional Council of the Cape, are the major providers of services in the metropolitan area;
- 46.10 the provision of transport according to rational principles has been initiated by the Central Government, with the City of Cape Town being the core city, i.e., it co-ordinates all the transport planning and does a great deal of the work involved;
- 46.11 town or regional planning powers are tending to become centralised at Central Government level and some of the Government planning for the metropolis can be criticised on the ground that it is based on principles, by no means universally accepted, aimed at restricting city size, largely because of racial policies. Government planning also does not deal with all the problems of the area because the planning to a large extent, is concerned with race;
- 46.12 planning should not only be concerned with town planning but also with the whole administrative organisation and the society it serves;
- 46.13 the State has provided machinery by which local authorities may obtain funds for housing, and the City of Cape Town and the Divisional Council of the Cape are the major providers of public housing in Greater Cape Town;
- 46.14 however, the extent of present and future housing needs is such that more land is required and less conventional methods will have to be followed, such as self-build or upgrade schemes;

46.15/.....

- 46.15 the coloured community is tending to develop a "dependence syndrome", i.e., it is expecting to be provided with the means of life and living, and this holds dangers for the whole community;
- 46.16 increased employment opportunities is an urgent need for the coloured community and one way of partly meeting this need would be to encourage small businesses and cottage industries;
- 46.17 the only significant single source of revenue open to local authorities is a rate levied on immovable property;
- 46.18 this is insufficient to meet the costs of providing services for both white and coloured;
- 46.19 after strenuously resisting the idea of paying rates on its immovable property the State has finally decided to do so, thereby ending the system that resulted in local authorities subsidising the State;
- 46.20 neither the Borckenhagen nor the Browne Committees were prepared to recommend substantial financial aid to local authorities, although both acknowledged that the burden of providing services to the black and coloured communities was a drain on local government finances;
- 46.21 the Browne Committee Report can only be described as disastrous to local government. The Committee largely ignored its terms of reference, and set out to destroy representative local government, whether deliberately or whether it had some other motive. Its recommendations are aimed at establishing centralised control over matters largely of local concern. Its knowledge of local government seems, at the least, to have been superficial, and, instead of recommending additional sources of revenue, the Committee impertinently suggested that local government should subsidise the Government's policy of separate coloured and indian local authorities;

46.22/.....

- 46.22 however, the indications are that the Browne Committee Report will not be adopted in its entirety;
- 46.23 the local authorities in Greater Cape Town dispose over considerable spending power but the only local authorities of major size and economic strength in the area are the City of Cape Town and the Divisional Council of the Cape;
- 46.24 although it seems that the City of Cape Town is less cost-effective than the other local authorities in the area, the reason for this is that its ratepayers pay for a range of regional services without the other ratepayers of the region having to contribute to the infrastructural costs of those services even though payment might be made for the actual service received, e.g., water;
- 46.25 coloured residential areas have to be subsidised if they are to be given normal municipal services, and where civic amenities are provided, the amount of the subsidy increases;
- 46.26 if the coloured community is to be given the additional community facilities and amenities required to uplift and stabilise this community, the amount of the subsidy will have to be drastically increased;
- 46.27 if the required subsidy is withheld the ultimate consequences would be disastrous for all the people of the metropolitan area;
- 46.28 whatever the basis of the subsidy, self-interest on the part of the whites would be a paramount factor.

NOTES/....

NOTES

1. Chapter 1, sections 2 to 4 and section 11 of Act 4 of 1966.
2. Sections 5 and 6 of Act 4 of 1966.
3. Section 11 and sections 52 and 53 of Act 4 of 1966.
4. Sections 13 and 14 of Act 4 of 1966.
5. Housing Code, pp. 18, 22, 24, 34-50, 56-61, 62-63 and 90.
6. 1979 Municipal Year Book, pp. 434-441, and Tour of Council's Housing Projects by the Committee of Enquiry into Alleged Losses on Housing Schemes, Divisional Council of the Cape, 18 March, 1980, annexure B1.
7. From the same sources as given in n.6.
8. Interim Report : Cape Divisional Council's Housing Land Requirements, August, 1980, paragraph 2.3.2.
9. City Engineer, Cape Town, Facing the Squatter Crisis, p. 1.
10. Interim Report, supra, paragraph 2.5.
11. Facing the Squatter Crisis, supra, p. 2.
12. Divisional Council of the Cape, Progress Report on Squatter Control.
13. Facing the Squatter Crisis, supra, p. 7.
14. Facing the Squatter Crisis, supra, p. 3.
15. Divisional Council of the Cape, Item 4 of Housing Agenda, 2 December, 1980.
16. City Engineer, Cape Town, Land Use in Greater Cape Town, p. 23.
17. City Engineer, Cape Town, Land Use in Greater Cape Town, p. 6.
18. J.G. Brand, Facing the Housing Problem, p. 17.
19. Brand, op. cit., p. 6.
20. Brand, op. cit., p. 12.
- 20A. Letter dated 24 February, 1981, from the Secretary to the Committee of Enquiry into Alternative Methods of Housing Procurement for the Lower Income Groups.
21. Massachusetts's Institute of Technology, The Bras de Pina Experience, pp. 30-46.
22. David Dewar and Vanessa Watson, Unemployment and the 'Informal Sector' : Some Proposals, pp. 40 and 139.
23. City Engineer, Cape Town, Facing the Squatter Crisis, p. 19.
24. Engineer, Divisional Council of the Cape, Cape Metropolitan Area : Draft Guide Plan : Proposals Submitted to the Guide Plan Committee, p. 26.

25. Section 82 of Ordinance 20 of 1974.
26. Sections 80-83 of Ordinance 18 of 1976.
27. See Valuations Ordinance, 26 of 1944, for the details.
28. D.L. Craythorne, Municipal Administration : A Handbook, p. 199.
29. Sections 73 and 74 of both Ordinances 20 of 1974 and 18 of 1976.
30. J.W. Cowden, Holmes Local Government Finance, pp. 67, 69 and 114.
31. Cowden, op. cit., pp. 80-83.
32. As stated in questionnaires returned in the survey except Durbanville and Kraaifontein where the 1979 Municipal Year Book was the source, and the Divisional Council of the Cape which, according to its 1979 Estimates of Revenue and Expenditure, uses the flat rating system.
33. See sections 79 to 81 of Ordinance 20 of 1974 and sections 77 to 79 of Ordinance 18 of 1976.
34. Cowden, op. cit., p. 87.
35. Cowden, op. cit., pp. 96-98.
36. Cowden, op. cit., pp. 98-99.
37. Borckenhagen Report, Part I, p. 24.
38. Borckenhagen Report, Part I, pp. 24, 26-27 and 28-29.
39. Borckenhagen Report, Part I, pp. 30, 38, 40, 42-43.
40. Borckenhagen Report, Part I, pp. 66-70.
41. Borckenhagen Report, Part II, pp. 95-96.
42. Browne Report, p. 1
43. See sections 3, 4, 80-82 and Chapters X-XV, for example, of Ordinance 18 of 1976, in comparison with the corresponding provisions in Ordinance 20 of 1974.
44. Browne Report, p. 64.
45. Browne Report, p. 64.
46. Browne Report, p. 65.
47. Browne Report, p. 65.
48. Browne Report, p. 65.
49. Browne Report, p. 66.
50. Browne Report, p. 66.
51. Browne Report, p. 67.
52. Browne Report, pp. 68-69.
53. Browne Report, p. 70.

54. Browne Report, p. 70-71.
55. Browne Report, pp. 72-73.
56. Browne Report, pp. 83-84.
57. Browne Report, p. 84.
58. Browne Report, p. 85.
59. Browne Report, pp. 86-89.
60. Browne Report, pp. 90-92.
61. Browne Report, pp. 94-95.
62. Browne Report, pp. 100 $\frac{3}{4}$ 101.
63. Cape Province Municipal Association, Browne-Komitee Verslag : Onderzoek en Opmerkings deur die Onderkomitee van die M.V.K. pp. 1 and 2.
64. The Argus, 12 May, 1981, p. 16.
65. The Argus, 17 September, 1980, p. 13.
66. The Argus, 12 June, 1980.
67. The Argus, 16 September, 1980, p. 5.
68. Cape Province Municipal Association Circular 41 of 1980.
69. Cape Times, 19 May, 1981, p. 3.
- 69A. The Cape Times, 13 August, 1981, p. 6.
70. 1979 Municipal Year Book, pp. 386-389 and the 1979 Estimates of Revenue and Expenditure, and Capital Expenditure, for the Divisional Council of the Cape.
71. Extracted from questionnaires returned and the 1980 Estimates of Revenue and Expenditure, Divisional Council of the Cape. The employees of the Divisional Council of the Cape include blacks in various capacities.
72. This is a summary of Table 60.
73. The Spatial Strategy Report, p. 19.
74. Derived from Tables 3, 4, 60, 61 and 62. This table ignores capital expenditure.
75. See Tables 4 and 30, for example.
76. See paragraphs 31 to 34 of Chapter Four.
77. See paragraph 31 of Chapter Four.
78. See paragraphs 37 and 38 of Chapter Four.
79. Estimates of Revenue and Expenditure for 1979, Divisional Council of the Cape.
80. The 1979 Estimates of Revenue and Expenditure, Divisional Council of the Cape and the Data Bank of the Town Planning Section of the Divisional Council of the Cape.

81. The 1979 Estimates of Revenue and Expenditure, Divisional Council of the Cape, and the Data Bank of the Town Planning Section of the Divisional Council of the Cape.
82. Divisional Council of the Cape, Housing Committee Agenda, item number one, 12 May, 1977.
83. Divisional Council of the Cape, schedule of Community Facilities and Landscaping : Estimated Capital and Operating Costs : 1st January, 1979 to 31st December, 1984, undated.
84. Data Bank, Town Planning Section, Divisional Council of the Cape.
85. City of Cape Town, Estimates of Income and Expenditure, 1979.
86. Town Clerk's Department, Cape Town, Housing Branch : General Information : Position as at 31st December, 1979.
87. See, for example, the Browne Committee Report, p. 83.
88. See, for example, Humes and Martin, The Structure of Local Government : A Comparative Study of 81 Countries, pp. 189 and 205.

CHAPTER SIX

A PERSPECTIVE OF URBAN LOCAL GOVERNMENT

1. The purpose of this chapter is to examine local government in a selection of other countries with reference to the franchise and elections, executive leadership, the functions of local authorities, financing and budgeting, local autonomy, citizen participation, and the solution of area-wide problems, e.g., the two-tier system. In addition, reference will be made to past and current attempts to establish metropolitan authorities in the Cape Town and Durban areas. In selecting countries for examination, the choice was confined to countries in the western world because South Africa received its local government systems from the western world. In addition, the countries selected are mainly but not exclusively developed countries as South Africa is considered to be partly developed and partly developing. Finally, this chapter is not a full comparative study as space does not permit this.

ENGLAND AND WALES

Structures and Functions

2. Since 1974 there has existed a hierarchy of metropolitan counties, metropolitan districts and parishes in the conurbations, and counties, districts or boroughs and parishes or towns in mixed urban and rural areas.¹ London will be discussed in a separate paragraph *infra*. The discussion that follows concentrates on metropolitan counties and districts or boroughs. Hill states that the Redcliffe-Maud Royal Commission which led to the systems just described took

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into account four key factors, viz., boundaries rendered obsolete by modern mobility, thereby rendering the previous bodies ineffective as comprehensive planning bodies, effectiveness had not sufficiently been defined, the idea of the viability of local authorities was not certain in relation to the desirable degree of popular control, and also, that local authority work should be viewed collectively and not in relation to individual services.² Richards states that government departments in their submissions to the Royal Commission, favoured larger local government units in the interests of efficiency and uniformity, and he adds that the Commission's terms of reference hinted at the perennial conflict between efficiency and democracy, e.g., the reference to the effective exercise of functions and the sustaining of a viable system of democracy.³

3. The metropolitan system described above is a two-tier system and accordingly the functions of metropolitan counties and metropolitan districts or boroughs are set out below:

Metropolitan Counties

Education and Related Services
Museums and Art Galleries
Housing and Town Development
Town and Country Planning and Related Matters
 Building Control
 Development Control
 Acquisition and sale of land
 Various parks and roads or paths
 Commons and caravan sites
 Smallholdings
Highways and Related Subjects
 Transport Planning
 Highways and Traffic
 Parking
 Passenger Transport
 Road Safety
Consumer Protection

Metropolitan Districts or Boroughs

Social Services
Education and Related Services
 Education
 Libraries
 Museums and Art Galleries
Housing and Town Development
Town and Country Planning and Related Matters
 Building Control
 Development Control
Acquisition and Disposal of land
Various parks and roads or paths
Management of Commons
Caravan sites
Highways and Related Subjects
May claim maintenance powers over unclassified urban roads

Other/.....

Other Environmental Services

Land Drainage
Refuse Disposal
Health Education

Police and Fire

Recreation and Tourism

Swimming Baths
Parks and Open Spaces
Physical Training and Recreation

Other Services

Entertainments
Aerodromes
Natural Emergencies.

Environmental Health

Food safety and hygiene
Control of Communicable Disease
Control of Office, Shop and
Factory Premises

Other Environmental Services

Local Sewers
Land Drainage
Refuse Collection
Litter
Coast Protection
Clean Air
Building Regulations
Nuisances
Cemeteries and Crematoria
Markets
Offensive Trades
Health Education

Recreation and Tourism

Swimming Baths
Parks and Open Spaces
Physical Training and Recreation
Publicity for Tourist Attractions

Other Services

Entertainments
Aerodromes
Natural Emergencies.⁴

4. The lists of functions given above seem, at face value, to be a system of overlapping functional jurisdictions, which could lead to confusion. Perhaps it should also be mentioned that the term function is synonymous with the term service. However, the British Information Services state that functions which need to be planned over a substantial area are allocated to county councils in both metropolitan and non-metropolitan areas. Even if a function does not need a large area but does need a large work-load to permit of the economical employment of a range of specialised skills it is allocated to district or borough councils in metropolitan areas, and to county councils elsewhere. Examples in the latter case are education, personal social services and libraries. Essentially local functions are allocated to district councils everywhere, and where a function could be either very local or apply over a wider area, it is allocated to both levels everywhere. Examples of this dual allocation system are museums, art galleries and physical recreation.⁵

5. It seems that in England and Wales the structure of local government is divided essentially between metropolitan and non-metropolitan services but no attempt seems to have been made to create metropolitan counties of approximately the same size. For example, according to Richards, the total population of Greater Manchester is 2 709 000 persons, who are to be found in ten districts with populations ranging in size from 180 000 to 656 000. This, as will be seen later, is somewhat different to what eventually evolved in Toronto, Canada. As far as the allocation of functions is concerned, the approach appears to be pragmatic in that the need for a particular service seems to be related to whether a function is allocated.

London

6. London differs from other English large urban centres in that a metropolitan form of local government was introduced as far back as 1899⁷ and its more recent reform took place earlier than in the rest of England and Wales, and hence different legislation applies to it.⁸ Greater London consisted originally of the London County Council and 28 metropolitan boroughs but after the enactment of the London Government Act of 1963, the London County Council was changed into the Greater London Council, with extended boundaries, and with an increase in the number of boroughs to 32.⁹ Estimates of the population of Greater London vary. For example, Richards states that the populations of boroughs vary from 136 000 in the smallest, to 329 000 in the largest borough, while the British Information Services give an estimate ranging from 136 000 to 321 000.¹⁰

7. An interesting aspect of Greater London's population is given by Cox. It appears that although the built-up area of London has nearly doubled in size, the population has slowly been declining since 1901. Cox attributes this to a lack of effective planning control; a failure to tackle the housing problem; a loosening of the ties between the city centre and its other parts; and the policy of moving heavy industry and new housing estates to country areas.¹¹

8. The functions of the Greater London Council are similar to those of metropolitan county councils but with some important differences. The Greater London Council is the highway authority for all principal roads in London other than trunk roads, and in inner London education is the responsibility of the Inner London Education Authority, which is an autonomous committee of the Greater London Council and on which each inner London borough is also represented. In outer London education is a borough function. The function of housing is being transferred from the Greater London Council to the boroughs, and similarly, consumer protection is a borough and not a metropolitan function as in other areas. The Metropolitan Police Force is directly responsible to the Home Secretary while in other metropolitan areas, this is a function of the metropolitan county. However, the City of London has its own police force. The remaining functions of the Greater London Council include strategic planning, fire and ambulance.¹²

9. The City of London is unique among English cities. Estimates of its permanent population vary between 5 300 and 8 000¹³ and it only has an area of 2.6 km.², but more than 400 000 people travel into the area each day to work there.¹⁴ The full title of the City of London is the Corporation of the City of London in the form of the "Mayor and Commonality and Citizens of the City of London". The history, constitution and powers of the City of London are unlike those of any other local authority in England and Wales. The Corporation acts through three courts--the Court of Common Council, the Court of Aldermen and the Court of Common Hall, with the Court of Common Council being the main administrative and executive body, similar to a London borough council.¹⁵ The system of aldermen has been abolished in England and Wales, except in London where it is being phased out.¹⁶ The main lesson to be learned from the existence of the City of London in a metropolitan context is that even an area which is small spatially, can by its influence and its economic position, not only continue to exist but also to grow and thrive, and to retain its traditions. When the local government of Canada is examined, it will also be seen that the City of Toronto has had approximately the same experience.

Franchise and Elections

10. The qualification to become a voter at a local government election are residence in the local authority area; a minimum of 18 years of age; citizenship of Britain or the Irish Republic; the possession of certain capacities, i.e., being of sound mind, not having been convicted of certain offences; and enrolment in the register of electors. The register of electors is used for both national and local elections.¹⁷ The local government franchise in England and Wales since 1945 is no longer based on the ownership of immovable property. Hill states that the local government franchise is subject to two conflicting forces. The first argues that every person has the right to take part in government on the simple basis of citizenship. The second argues that property alone gave men that direct interest on which to base responsible participation. As local authority services were increasingly financed from national taxation, exclusiveness of ratepayer representation was increasingly challenged until democratic pressures resulted in the present system. In the South African context, however, it may be desirable to commence with an evolutionary process in terms of which any local government reform is initially based on the ownership or occupation of immovable property, and allowing the process to develop from this point under its own momentum.

11. In both metropolitan and non-metropolitan counties elections are held every four years with one councillor being elected for one ward. In the case of metropolitan districts or boroughs each ward returns a number of councillors divisible by three and a third of the councillors for every ward is elected in each of the three years between county elections. Districts in non-metropolitan areas may opt for elections either on the county council or the metropolitan district council pattern. Elections for the Greater London Council and its boroughs are held every four years.

12. Richards and Hill have both written on the functions of the English councillor, and because the constitutional model will contain a discussion on the governing and representative functions of

councillors/...

councillors in the Cape Province, a summary of their views is given below:

- 12.1 councillors represent the electorate;²⁰
- 12.2 the function of representing the electorate includes accountability to those represented, acting as a symbol for the electorate, representing sectional interests and representing political interest;²¹
- 12.3 councillors, when they take decisions, do so corporately, and some of those decisions may be the setting of new, or amending old, policies;²²
- 12.4 councillors tend to deal with detail and to undertake "casework" on behalf of constituents. The "interference" of councillors in the "administrative work" of officials stems from laws relating to surcharges by auditors and the ultra vires doctrine.²³

The Chief Executive

13. In England a tradition developed for the town clerk to be a lawyer. For example, the Municipal Corporations Act of 1835 merely required the town clerk to be a fit person who could also, but need not, be an attorney of a superior court.²⁴ According to Finer the apparent intention of the Nineteenth Century legislation in England was to provide an officer who would be chief of the clerical staff, the director of legal proceedings, legal adviser and keeper of records. The reason for this approach, according to Finer, was that in the Nineteenth Century hardly anyone thought of the local authority as an agency for the provision of a large complex of social services.²⁵

14. Headrick, after an examination of six to seven centuries of town clerks, came to the conclusion that in England the office of town clerk has had a long and close connection with the law. Since 1835 it has been a fairly general practice to appoint solicitors as town clerks, and the town clerk in England has tended to be a record-keeper, the secretary for the corporation, the recorder of its proceedings, as well as a type of community leader in the sense of being the spokesman for his council.²⁶

15. The Maud Committee criticised the lack of co-ordination within English local authorities²⁷ and then referred to the lack of definition of the role of the clerk, i.e., the town clerk, of local authorities. The Maud Committee noted that several investigations had taken place, and in 1949 it had been recommended that the clerk should be the chief executive and administrative officer of his council but that this conflicted with another recommendation to the effect that chief officers, i.e., heads of departments, were to be responsible to the council through the appropriate committees.²⁸ The Maud Committee recommended the establishment of a management board which would formulate objectives, review progress and assess results, maintain an overall supervision of the organisation, take decisions under delegated authority, and to be responsible for the presentation of business to the council.²⁹ The Maud Committee also stated that each council should have one officer who would act as co-ordinator and leader. It thus recommended that the clerk be recognised as the head of a council's service, with authority over the other principal officers. The clerk would be responsible to the council through the management board, with the principal officers responsible to the council through the clerk. The clerk's specific functions would be to ensure the effectiveness and efficiency of the organisation, to provide co-ordinated and integrated staff work to the management board, to ensure that the decisions of the council and the management board are implemented, to act as the leader of a team, and to ensure that an effective establishment organisation is set up to secure economy in the use of manpower.³⁰

16. That the Maud Committee recommendations did not result in wholesale changes is evidenced by the fact that the Bains Committee was established in 1971 to report on management structures within which councillors and officials could operate.³¹ The Bains Committee reported in 1972. The Bains Committee recommended the establishment of a policy and resources committee to provide the full council with comprehensive and co-ordinated advice on the implications of decisions for the community. The policy and resources committee would assist the council in setting its objectives and priorities, and once a decision had been taken, it would co-ordinate and control its implementation. The Bains Committee also recommended three resource sub-committees which would relieve the

policy/.....

policy and resources committee of detail work. These sub-committees would deal with finance, manpower and land. In addition, it was recommended that a performance review sub-committee be formed to act as an independent monitoring and review body over the activities of the other committees with authority to investigate any project, department or area of activity.³²

17. With regard to the chief executive, the Bains Committee stated that there had been little evidence in favour of an all-powerful chief executive but there nevertheless remained a need for an overall leader. The Bains Committee stated that the lack of co-ordination for a wide range of services gave rise to a need for a chief executive, whose first task would be to gain the respect and esteem of his colleagues. The primary function of the chief executive should be to act as the leader of a team of chief officials, and to be co-ordinator. In addition, he should be his council's principal adviser on matters of general policy. The job specification produced by the Bains Committee for a chief executive strongly stresses the leadership and co-ordinative roles but also adds responsibility for the efficient and effective implementation of the council's programmes, responsibility for reviewing the organisation and recommending changes, the development of effective and equitable manpower policies, and the maintenance of good internal and external relations.³³

18. Stewart criticises the Bains formulation as giving authority in theory but withholding it in practice, with the result that unless the chief executive becomes the main link between the council and its staff, his role can be written off. The chief executive will either evolve towards a position of more clearly defined authority, seeking authority but not depending on it, or he will regress to the role of the traditional clerk.³⁴ Hill states that the Bains Committee Report, which was advisory and not mandatory, was weak in delimiting roles and functions and it appears that a variety of approaches, ranging from the traditional to the management-orientated, are being tried out in England.³⁵

Finance

19. According to the British Information Services, most local authorities in England and Wales obtain their capital funds by borrowing. Current expenditure, i.e., the annual operating budget, is financed from government grants, local rates and other income. Approximately a half of the current expenditure comes from government grants, approximately a quarter from local rates paid by the occupiers of land and buildings, and approximately a quarter from other sources. Government grants may be general, in which case they are known as rate support grants which are payable in aid of revenues generally, or they may be specific such as on police or for some capital project.³⁶ Rate support grants are distributed in three parts. The first is the "needs" element designed to give most help to those authorities whose spending needs are the greatest. The second is the "resources" element which is used to supplement the rate income of local authorities whose rateable value per head of population falls below a standard figure, prescribed for each year. The third is the "domestic" element which compensates local authorities for the loss of rate income from the reduction in rate poundage which they are obliged to give to householders. Rate poundage is the number of pence in the pound which occupiers have to pay on the rateable value of their property, and is calculated by dividing the total sum to be raised by the estimated yield of a penny rate in the area of the local authority. For 1979/1980, the rate poundage on residential property on which the government would give assistance was 18.5p in England and 36p in Wales.³⁷

20. Richards records that government financial support for local government in England goes well back into the Nineteenth Century and that the basis of grants is that a specific service is of national as well as local interest. This leads to specific grants but the trend in England is away from specific grants and towards general grants. The rate support grant, which is the system currently in use was introduced during 1966. The size of the grant depends upon what the government feels the country can afford and the rate support grant constitutes 90% of all central government aid to local government.³⁸ Hill links centralisation to government financial aid, with the prospect of financial control and detailed administrative supervision being the consequences of that aid. The effect is

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control over local policy and priorities but she adds that as government departments become overburdened, there is likely to be a pressure to decentralise to field agencies or to devolve.³⁹

THE UNITED STATES OF AMERICA

Structures and Functions

21. The two basic units of American local government are the urban municipalities, which are variously referred to as cities, boroughs, villages or incorporated towns, and counties which are unincorporated units of government which perform many functions as agents for their respective state governments. There is also the special-purpose district, of which there are some 65 000, which are formed to provide schools, fire protection, soil conservation, sewers, water and other utilities.^{39A}

22. The urban municipality is created by the respective state governments, with the result that there are wide differences in the method of establishment but all are incorporated through special charter, general law, optional charter, or home-rule. A special charter is an act of the state government concerned which establishes a single municipality. The term general charter applies to a general law in terms of which charters are granted to municipalities according to their classification. The usual method of classification is according to population, e.g., cities with less than 10 000 people, between 10 000 and 25 000 people, etc. Optional charters enable local voters to choose one of several established forms of municipal government. Home-rule charters, although enacted through the state legislature, provide cities with self-governance. In this case the citizens of the area elect a charter commission to draw up and submit to the state legislature and to the local voters, a document setting forth the local government structure and organisation.⁴⁰

23. The counties, as stated above, are unincorporated, i.e., they are not created as legal or juristic persons, and perform their functions

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as agents for the respective state governments. In some states the county is primarily a judicial while in others it may be the only unit of local government for all the areas outside the incorporated municipalities.⁴¹

24. The existence of a multitude of overlapping and unco-ordinated units of local government has given rise to problems such as planning, transportation, economic development and air pollution control which require a regional solution. Some of the problems have themselves arisen from federal government programmes without considering the need for the integration of all the public services in an area.⁴² Henry states that three solutions have been suggested to these problems and which he describes respectively as ultralocalism or the retention of fragmentation because a multitude of local government units are more likely to be responsive to the citizen's needs; gargantua or the invention of a single metropolitan government or of a regional superstructure which points in that direction in order to ensure effective and efficient public services; and the compromise approach which desires to achieve both responsiveness and effectiveness by separating regional from purely local functions.⁴³

25. Whichever solution will ultimately appear as the dominant one in America, the federal government in its legislation has provided for voluntary metropolitan councils of governments or COGs as they are usually described, and local and regional policy councils. The metropolitan COGs were established as advisory bodies to assist federal government agencies in the allocation of funds and the devising of programmes but in some cases COGs have evolved to the stage where they have acquired taxing power and the power to plan and carry out anti-pollution measures, zoning and noise abatement over seven counties, such as at Minneapolis-St. Paul, or towards the acquisition of governmental power. In general, COGs can be described as being designed to rationalise particular kinds of metropolitan governmental activities according to area administrative criteria.⁴⁴

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26. The local and regional policy commissions or councils are designed to aid in the co-ordination of programmes conducted by local governments by setting policy goals and developing long-range regional economic plans and co-ordinating their implementation. These commissions differ from COGs in that the latter are voluntary while the former are public planning bodies. These commissions tend to come in three varieties, viz., county planning commissions, city-county planning commissions and multi-jurisdictional planning commissions. While a large number have remained as planning bodies, others have evolved into economic development districts or area-wide policy councils. More than half of the commissions have memberships composed of local elected officials.⁴⁵

27. The services provided by American incorporated municipalities include police and fire protection, public works, the provision of community facilities such as libraries, parks and recreational facilities, public utilities, e.g., services such as roads, drainage, water, etc., zoning and city planning, and sometimes public health facilities, airports, harbours and low-cost housing. The unincorporated counties perform a range of functions which, depending on state government policy, may be judicial only up to services such as courts, education, health, public welfare, public works and roads.⁴⁶

Franchise and Elections

28. Here again, it is necessary to differentiate between incorporated municipalities and unincorporated counties. In the case of municipalities the period for which councillors or officials are elected depends on the management system followed in the town or city concerned--these systems are discussed infra under the heading of Chief Executive. Under the mayor-council system council members are elected by majority vote from the various wards into which the municipality is divided, although elections at large, or a combination of election at large and the ward system are also found. The mayor is also elected and the term of office of councillors and the mayor varies from two to four years.

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Under the commission form of government, a council or commission of three to seven members is elected, usually at large, to direct municipal activities for a four-year term of office. Where the council-manager form of government applies, the council, usually consisting of three to nine members, is elected through city-wide non-partisan elections.⁴⁷ The qualifications for voters centre generally on citizenship and residence but in some states eligibility to vote is based on the payment of a per capita "poll tax".⁴⁸

29. Counties, as stated, are organs of the respective state governments, but each county has a governing organ, the names of which vary widely, e.g., Board of Supervisors, the Commissioners, the Legislators, etc. The membership of these governing bodies consists partly of elected members and partly of appointed members. There is usually three elected members, who are elected at large or by districts, plus one or two elected officials. It is a characteristic of the county system that most officials, such as the recorder of deeds, treasurer, county clerk, sheriff, prosecuting attorney, etc., are popularly elected. The appointed members consist of the supervisors of the townships within the county and commissioners chosen by the state legislature.⁴⁹

Chief Executive

30. There are three systems used in American local government for executive control and these are the mayor-council system, the commission system and the city manager system. The mayor-council form has two variations, the strong and the weak mayor system. Each is briefly described below.

31. In the mayor-council system the council consists of elected representatives and the mayor who is also elected. The difference between the weak and the strong mayor is to be found in the extent to which the mayor may appoint or dismiss officials and the extent to which municipal departments are supervised by committees of the council.⁵⁰ The problems of the weak mayor system, according to Henry, are those classic to any overly centralised administrative system in which comprehensive planning becomes a virtual impossibility.⁵¹ In the council-mayor system, the council adopts

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the annual budget, authorises loans and levies taxes and the mayor may have powers to propose local laws and policy decisions, to prepare the budget, to veto selected measures passed by the council, to launch investigations and to act as the ceremonial head of the town or city. However, under the strong mayor variant, the mayor also exercises considerable leadership and executive powers in the political and administrative fields, to the extent that he is able to deal effectively with the governor and the state legislature.⁵¹

32. The commission system was a reaction against the weak mayor system but shares many of its disadvantages in the sense of confusing the legislative and executive roles.⁵² Under this system an elected commission of from three to seven members is established. The commission functions partly as a council in that it passes local laws, sets taxes, makes appointments and dismissals, adopts general policy and determines the annual budget, and partly functions in an executive capacity in that individual members supervise the daily administration of municipal departments. These dual roles tend to lead to a form of consensus in which the individual protects his area of authority by "going along" with the others, and there is also a lack of administrative integration. The use of this system is declining.⁵³

33. In the council-manager system the council is the policy-making body which passes local laws, sets tax rates, determines the annual budget and hires a city manager. The city manager is the chief executive and is professionally trained. The council may hire and fire the city manager and he in turn directly supervises the municipal administration with the power to hire and fire departmental heads. The city manager's duties are defined by the city charter, and in addition to his supervisory role he also advises the council in the formulation and revision of policy, sees to the preparation of the annual budget, reports to the council, and presents an annual report to the electorate on general municipal conditions.⁵⁴

34. A significant factor in all three of the systems described above is the separation of functions between the managerial field, such as the

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supervision of departments, giving advice, preparing the budget, etc., and the political field, in which councils decide on taxes, approve the budget and enact local laws. No matter how much innovation is introduced into local government, it seems that whether in America, England or South Africa, it is an inherent part of local government that the elected representatives should take certain decisions. Henry also states that the council-manager and mayor-council systems appear to be blending in the form of a new office, the city administrator, who is usually a professional administrator and who is accountable only to the mayor.⁵⁵

Finance

35. As will have been seen from the preceding paragraphs, it is councils which determine local taxes. That local taxes are not sufficient to meet the cost of all the expenditure needed will appear from what follows.

36. Federal government assistance to state and local governments in America is considerable: in 1977 the federal government transferred 70 billion dollars to state and local governments, and the state governments transferred 50 billion dollars to local government.⁵⁶ Financial assistance from the state governments and the federal government is referred to as grants-in-aid. Federal grants are of two types, project grants which are given for a specific purpose and formula grants which are given for selected functions on the basis of factors such as population and fiscal capacity. The grants given by the states enable them to impose broad standards of administration and personnel, and to provide for periodic inspections. Federal grants also result in the setting of administrative and personnel standards, and a requirement for the submission of reports and statistics.⁵⁷

37. The grants given by the states account for more than a third of the typical local government's annual revenue. State grants are also of two types, viz., straight grants for specific purposes, and shared taxes, in which the state shares with local governments a portion of the taxes it collects.⁵⁸ A major difficulty of the grants-in-aid system is that

project grants tend to undermine local objectives, i.e., to distort local priorities in the sense that even if the programme for which the money is offered is not needed, there is a tendency to accept it. The federal grants are increasingly becoming the means of achieving national and not local objectives. Other objectives to the grants-in-aid system are a lack of policy initiative at local levels, i.e., the initiation of changes is tending to come from the national and not the local level, rigidity because of the conditions attached to grants, lack of co-ordination at the national level, and the delays and uncertainties caused to a large extent by planning taking place on the basis of promises made but not completely fulfilled. As the grants-in-aid system becomes more national there will be a tendency to impose minimum national standards. Where the grants are of the formula or block type there is more autonomy for the recipient in how the money is to be spent, than in grants for a specific purpose. ⁵⁹

38. It can therefore be said that American local governments receive considerable financial assistance, and that there is what can be described as partial autonomy in the system in that some grants allow local options as to how the money is to be spent but that project or specific grants can result in expenditure which is not always necessary to meet local objectives.

CANADA

Structures and Functions

39. Canada is a federation with ten self-governing provinces which establish and exercise control over local government. In eight of the ten provinces there is a single-tier unit of local government, while in Quebec and Ontario there is a second-tier unit known as the county. Alberta and Nova Scotia also have a county unit but on a single tier basis. The sparsely inhabited areas are generally administered directly by the provincial governments. In urban areas the

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local governments are known as cities, towns, townships or villages, while the rural municipalities are known as townships, parishes, district municipalities, municipal districts or county municipalities. There are also the counties.⁶⁰

40. Urban municipalities are created by the provincial governments which thus, in each province, determine the structure, organisation and responsibilities of local government in their respective provinces. The councils of Canadian urban municipalities range in size from between seven and 20 members who are either elected at large or according to wards, although the mayor is always elected at large, except in certain metropolitan municipalities--see infra. The rural municipalities have councils ranging in size from eight to 12 members, elected by popular vote either at large or by wards, and for a term of office of one year. The tendency is to move to a two year term of office. The chief elected official is the reeve, who is elected at large.⁶¹

41. The structure of urban municipalities falls into four categories. The first of these and the one most commonly used, is the council-committee system in terms of which councillors serve on a number of committees, and the committees, after consultation with departmental officials, report their findings and recommendations to the full council. The role of the committees is to initiate policy and they do not possess executive powers.⁶² Another form of local government is the council-commissioner system. Under this system the council appoints one or two commissioners to hold office at its pleasure for the purpose of exercising broad powers of supervision over all city departments, as well as to administer the budget, co-ordinate the work of departments and to advise the council on overall policy. One of the commissioners may be the mayor but where this is not the case, both commissioners are appointed from outside the council.⁶³

42. The third system is the mayor-commissioner system. Under this system the council appoints two full-time commissioners to act as advisers to the mayor, and these three then function as an executive board.

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One of the commissioners is responsible for co-ordinating the council's financial, administrative, organisational and management activities, while the other is responsible for the management of engineering, public utilities and other public works functions. The mayor presents recommendations to the council while the commissioners provide technical information and advice on request. Standing committees might also exist under this system.⁶⁴ The fourth system is the council-manager system, which was devised in an attempt to separate policy from administration--the policy/administration dichotomy is briefly discussed in Chapter Eight. In terms of this system, the council appoints a manager to serve at its pleasure. The manager prepares the annual budget, administers the use of funds, supervises all municipal departments, appoints officials, and makes recommendations to the council. In the smaller councils, an existing head of department sometimes emerges in the role of manager because of his position or his knowledge.⁶⁵

43. In the rural municipalities frequent use is made of part-time personnel and it is not unusual to find elected members participating directly in administration.⁶⁶ County councils do not have jurisdiction over cities or "separated" towns, and council members are indirectly elected in that they are either the local reeve or representatives appointed by municipalities in terms of special legislation.⁶⁷

44. The functions of urban and rural municipalities are to exercise legislative authority within the statutory competence allowed to them and to provide public utilities, undertake engineering works, provide amenities, public transport, police, etc.⁶⁸ The counties provide area-wide roads, gaols, court-houses, homes for the aged, the registration of land transfers and public health. In Ontario, counties may also do tax assessments for all constituent municipalities, engage in strategic planning and administer education.⁶⁹ It is also the practice in Canada to set up special-purpose boards to administer functions such as education, public utilities, planning, public transportation and police.⁷⁰

Franchise and Elections

45. Urban municipal councils are elected, either at large or according to wards, for periods of office ranging from one to three years. The mayor or reeve is always elected at large. Rural municipalities are elected either at large or by wards, for a period of office of one year although this is tending to be extended to two years. As elections are referred to as popular, it is presumed that the franchise qualification is based on age and residence.⁷¹ Counties, as stated supra, have members who are nominated.

The Chief Executive

46. The chief executive is the mayor and he is expected to provide political leadership, initiate policy, co-ordinate administration, preside over meetings of the council, and to perform ceremonial functions. In rural municipalities, this office is known as the reeve while in the counties he is known as the warden. It should be noted that under the mayor-commissioner system, the mayor forms part of an executive group, while under the council-manager form of local government, the manager is known as the chief administrative officer, and not the chief executive.⁷²

Finance

47. Urban and rural municipalities rely heavily on local property taxes for their income but also derive income from charges, fees, services, licences and profits from municipal enterprises. The remainder of their revenue comes from central government grants which may either be general, i.e., unconditional, or in lieu of taxes, or for some specific purpose. Counties have no taxing powers and their funds come from provincial grants and from requisitions from municipalities in the county. In turn, the municipalities add this amount onto the local taxes.⁷³

48. All provinces have a department of municipal affairs and control over local government may be rigid or nominal depending on

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the provincial government concerned--Departments of municipal affairs are charged with the general oversight of local administration and finances, the standardisation of taxing and accounting procedures, the compilation and distribution of statistical information, investigating alleged wrongs, conducting general enquiries into the organisation, structure and finance of local government, promoting better municipal administration, and generally, offering advice and assistance to municipalities.⁷⁴ From the emphasis placed on assistance and support it is reasonable to infer that as a matter of general policy, the aim of the provincial governments is more to exercise broad policy control rather than detailed control over every act.

Metropolitanisation

49. Metropolitan municipalities have been established at Toronto and Winnipeg and in Montreal an urban community has been brought into being. What follows are some notes on Toronto and Montreal.

Toronto: General Background

50. During the nineteen-forties and nineteen-fifties Toronto experienced a considerable shift of population to it from the rural areas but because of shortages caused by World War Two, the existing local authorities were unable to provide adequate services and there was no co-ordinated long-term planning. At that time the metropolitan area of Toronto was made up of thirteen municipalities varying in nature from extensively urbanised to largely rural. The main source of revenue was a tax on residential property. Following an investigation by the Municipal Board of the Province of Ontario, during which public hearings were held, the Municipality of Metropolitan Act of 1953 was passed by the Ontario Legislature. This Act created the Municipality of Metropolitan Toronto as the upper level in a two-tier system of local government. This move was opposed by all the municipalities except the City of Toronto.

51. The original Metropolitan Council consisted of twenty-four representatives, twelve from the City of Toronto and one each from the other twelve municipalities. The system was a federal one and one of the most important perceived advantages was that the total wealth of the
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thirteen municipalities could be used to back the loans needed to finance the capital works required throughout the Metropolitan area. The system was not hierarchical--there was a fairly clear division of powers and municipalities carried out many of their own programmes independently of the Metropolitan Council and also negotiated direct with higher levels of government. Services such as police, fire protection and local planning remained at the local level while the Metropolitan Council had jurisdiction over matters of area-wide importance such as property assessment, the administration of justice, public transport and borrowing, and it also shared services such as water supply with the area municipalities. At the same time that the Metropolitan Council was established, the Metropolitan Toronto Planning Board was established to prepare an official plan for the surrounding region while the Metropolitan Toronto Board of Education and the Metropolitan Separate School Board were established to co-ordinate activities and equalise educational opportunities. The City of Toronto's transportation commission was also expanded to serve all of Metropolitan Toronto and re-named the Toronto Transit Commission.⁷⁵

52. In 1957 further changes occurred. The Metropolitan Toronto and Region Conservation Authority was established to conserve and develop for recreation the streams, rivers and river valleys in the Toronto Metropolitan area. At the same time, the thirteen police forces were amalgamated under the Metropolitan Board of Commissioners of Police, and the responsibility for business licensing was transferred from the area municipalities to the Metropolitan Licensing Commission. The new system worked well for its first ten years in so far as the provision of services was concerned but the system did not satisfy the differing needs of the rural and urban areas. There were also financial disparities in education and increasing dissatisfaction with the system of representation on the Metropolitan Council. As a result the Ontario Government in 1963 appointed a Royal Commission to review the Metropolitan system but only some of its recommendations were accepted by the Ontario Government in 1966, the most important of which were the reduction in the number of municipalities from thirteen to six, an increase in representation of the Metropolitan Council and adjustments in responsibilities for services. In the amended representation on the Metropolitan Council the City of

Toronto retained its twelve representatives but the representation for the other five area municipalities was increased from twelve to twenty. The Metropolitan Council was also made responsible for waste disposal, i.e., not just the collection of wastes, but their disposal, social services, the supervision of an area-wide ambulance service and the administration of the Canadian National Exhibition. In addition the Metropolitan Toronto Library Board was created to co-ordinate area library services and provide reference libraries. At the time the 1966 amending legislation was passed a further review of the Metropolitan system was promised. In 1974 the Metropolitan Council resolved that such a review be made, and this led to a second Royal Commission. At about the same time the representation on the Metropolitan Council was amended. The City of Toronto retained its twelve representatives while the area municipalities increased theirs to twenty-six. The second Royal Commission issued a newspaper called Update giving the historical background, its terms of reference and describing in full all the services rendered by the local governments in the area and a full schedule of all public hearings. Under the heading of citizen participation this publication also summarised the views already presented to the Royal Commission and asked the public to state whether the structure as it then was hampered the achievement of an appropriate level of citizen participation in local decision-making.⁷⁶

Toronto: The Royal Commission of 1974

53. The Royal Commission was given broad terms of reference to examine and evaluate the constitutional, political, financial and organisational functioning of the Metropolitan Municipality of Toronto, including the adjustment of municipal boundaries, the division of functions, the relationship between revenue and expenditure and the relationship between council members and the electorate with particular regard to the requirements of responsive decision-making and accountability. The Commissioner stated that his approach had been broadly evolutionary although he had identified problems requiring attention and these were: a lack of clarity in the system; insufficient accountability; less than fair representation; and obstacles to economic and effective government.⁷⁷

54. The Commissioner made a number of recommendations and these are described in a summarised form. The Commissioner recommended that the two-tier form of local government in Metropolitan Toronto should be continued, principally because a single government would be too large and impersonal to suit the tastes and traditions of the people of the area. However, Metropolitan Toronto should also continue to be made up of six area municipalities subject to proposed boundary revisions which would give each municipality a minimum population of 200 000 in order to remove inequities and to promote access to the political process. In fact, the target of 200 000 was not to be rigorously enforced as one municipality would have a population exceeding 300 000; another exceeding 400 000; and a third exceeding well over 600 000. A general review of the Metropolitan system be advocated in not less than five nor more than ten years, in order to see how the system was adapting to changed circumstances.⁷⁸

55. The Commission was of the opinion that the two-year term of office for councillors elected to serve on area municipalities and the Metropolitan Council should be extended to three years, as a two-year term had not reduced apathy in the larger centres and did not allow sufficient time for the evolution and implementation of policies. The escalating costs of elections was also considered relevant. Furthermore, candidates for election to municipalities and boards of education should be required to file a statement of the amount and source of campaign contributions. Wards should be of equal size with the target of 26 200 population per ward, but with a 10% variation permitted. The main reason for this was to establish effective links between councillors and citizens, i.e., to enhance accountability. This recommendation would not apply to the Metropolitan Council.⁷⁹

56. The Royal Commission was of the view that the Metropolitan Council should consist of the mayors of the area municipalities together with members elected directly from districts made up by grouping three wards into one district. These elected members would also be full members of the respective area municipalities, except that they would not be members of any executive or other local committee. The main reasons for this were that the previous system of nominating councillors from area

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municipalities to be Metropolitan councillors left them too little time to devote to Metropolitan affairs and also the increased responsibilities of the Metropolitan Council justified a measure of direct election. The Metropolitan Council Chairman should, however, be chosen from among the directly elected councillors.⁸⁰

57. As far as powers were concerned, it was recommended that legislation governing Metropolitan Toronto should be so amended that all the municipalities, area and Metropolitan, should have general powers to legislate for by-Laws as long as they did not conflict with provincial legislation. The main reasons for this recommendation were to boost local autonomy, to avoid delays at provincial level, and to permit more flexibility. In addition, the empowering legislation should not prescribe in detail how the legislative powers were to be exercised as this stifled initiative. In order to encourage flexibility in the formulation and implementation of policy, the Metropolitan Council and the area municipal councils should also be given a general power to delegate to persons or other bodies, provided the power of delegation was compatible with the principles of the rule of law and of natural justice. In addition, all local government functions should be the responsibility of the councils concerned. This meant that the separate boards or commissions for transport, regional libraries, police and welfare would be transferred to the Metropolitan Council, while the area municipalities would be responsible for planning, non-regional libraries and the sale of power. The main justification for this view was that once the basic urban infrastructure had been built up, there was a need for improved co-ordination in the provision of all services.⁸¹

58. The Commission stated that the office of mayor in Canada is not just ceremonial but also executive, and the Canadian mayor is both the head of his council and chief executive. It was recommended that this system be retained. Nevertheless, councils should be authorised to have an executive committee, together with any desired number of standing committees, and to delegate powers to all those committees. The Commission's view was that a choice of systems was a matter of local choice.⁸²

59. The issue of citizen participation was considered by the Commission to be important. The main form of citizen participation was through the ballot box but this could be supplemented by a prohibition on delegation and the retention of special boards or commissions on which laymen could sit. It was better, however, to have policy fixed by elected representatives and the institutionalisation of citizen participation was unlikely to be effective. Nevertheless the provision of information to as broad a spectrum of citizens as possible should receive priority. It was accordingly recommended that councils in Metropolitan Toronto should experiment with various ways of involving citizens in the development of policy and the administration of services, as well as ensuring that public information policies facilitated citizen understanding of local government and its activities.⁸³

60. The general or unconditional grants received from the provincial government to compensate for the loss of a local income tax, and which were based on population size, should be reviewed with a view to converting those grants to a per household basis thereby making the grants more responsive to the costs of the more populous areas. The conditional grants given for specific purposes and which represented some provincial concern for locally administered services as well as incentives for development, should be eliminated as perceptions as to local needs and the public interest were the function of the local councils. If this step were to cause serious financial problems the amount of the unconditional grants could be increased. It was also acknowledged that some Federal Government financial support would be required. Budgeting should be on a multi-year basis and cost savings by means of standardisation or the sharing of administrative services should be undertaken on a co-operative basis, as a study by consultants had found that significant savings and improved service could be achieved.⁸⁴

61. An overall land-use plan should be undertaken by the Metropolitan Council and, within the framework of this plan, area municipalities should be given the primary responsibility for land-use planning, but with provision for objections by interested parties or the

Metropolitan Council. The provincial Minister of Housing should have the final say on any objections.⁸⁵

Montreal

62. The Montreal Urban Community as it is called, consists of fifteen cities, thirteen towns, one village and one parish and was created as a corporate body in 1970 by an Act of the Quebec National Assembly. The Community has a combined population of 1 967 546 persons who are represented by 81 councillors. The affairs of the Montreal Urban Community are managed by an Executive Committee consisting of a Chairman, a Vice-Chairman and ten members, while the Administration is headed by a Secretary-General. Other chief officials are the Treasurer, Valuation Commissioner, Director of the Air Purification and Food Inspection Department, Director of the Metropolitan Transit Bureau, Director of the Water Purification Department, Director of the Planning Department of the Territory, Director of the Economic Development Office, the Board of Revision of the District of Montreal, the Security Council and the Police Department. Decision-making is by majority vote and the majority must include the votes of at least one-half of the members appointed by the City of Montreal and at least one-half of the members present appointed by the other municipalities. The functions of the Montreal Urban Community are -

- 62.1 the valuation of property for tax purposes;
- 62.2 the establishment of a development plan;
- 62.3 setting up a centralised data processing department, the preparation of a roll for the collection of taxes and the forwarding of tax accounts;
- 62.4 eliminating air pollution;
- 62.5 making uniform traffic by-laws and synchronising systems of mechanically monitoring traffic on main arteries and inter-municipal streets;
- 62.6 setting up inter-municipal drinking water systems;
- 62.7 inter-municipal sewers and inter-municipal water purification works;

- 62.8 garbage disposal;
 62.9 food inspection;
 62.10 co-ordination of fire protection departments in the territory of the community;
 62.11 by the adoption of by-laws, the assumption of jurisdiction over leisure activities of an inter-municipal nature, including the creation of regional parks; the construction of subsidised housing centres; the integration of fire protection departments; and inter-municipal libraries.⁸⁶

63. The 1974 budget for the Montreal Urban Council in summarised form was as follows:

| <u>Revenue</u> | | <u>Expenditure</u> | |
|--------------------------------------|----------------------|---------------------------------------|------------------------------------|
| Apportionments on Member Councils | \$ 11 793 822 | General Administration | \$ 7 188 416 |
| Share of Police (Member Councils) | \$ 95 307 178 | Transportation | \$ 39 996 031 |
| Tax | \$ 16 500 000 | Environmental Health | \$ 711 254 |
| Surplus | \$ 1 496 925 | Health and Welfare | \$ 1 538 127 |
| Recoveries and Sundries | \$ 2 672 000 | Planning and Development of Territory | \$ 1 051 127 |
| Provincial Subsidies | \$ 2 030 000 | Other Expenditure | \$ 15 453 345 |
| Transport share-Member Councils | \$ 1 371 531 | | |
| Provincial Subsidy-transport | \$ 20 000 000 | | |
| Share of estimated deficit transport | \$ 18 334 000 | | |
| Other revenue | \$ 80 152 | | |
| Contribution to Capital Fund | \$ 719 000 | | |
| | <u>\$170 304 608</u> | | <u>\$170 304 608</u> ⁵² |

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THE NETHERLANDS

Structure and Functions

64. Municipalities, known as gemeenten have equal status and powers under the Municipal Act of 1851. There are also eleven provincial councils. The council or gemeenteraad consists of seven to 45 members and is responsible for fixing tax rates, the enactment of regulations, the construction of roads, bridges, tramways and the like, drawing up the municipal budget, contracting loans, authorising purchases, selling municipal property and appointing certain officials. The council may also be called upon to enact regulations for the execution of central government laws and decrees in respect of matters such as building, housing and the sale of liquor. The provincial council enacts legislation in the fields of public health, economic, social and cultural affairs, agriculture, physical planning and public utilities. The provincial council also grants subsidies to cultural or social organisations, performs tasks in connection with dikes, canals, bridges, roads and the navigation of canals, and also deals with certain appeals of an administrative nature.⁸⁷

65. There is also a board consisting of from two to six council members known as the wethouders, who are responsible for carrying out daily governmental tasks such as council decisions, preparing matters to be submitted to the council, supervising municipal affairs, and in the larger councils, supervising the execution of council policy by one or more municipal departments. The mayor, known as the burgemeester is chairman of both the council and the board. Provincial councils also have boards consisting of six council members which implement the council's decisions, prepare matters to be submitted to the council, have sole charge of supervising municipalities and act as the agent of the central government in the execution of certain state laws and decrees. The head of the provincial government is the Royal Commissioner, who is appointed by the Crown, and who is the chairman of the council.⁸⁸

Franchise/.....

Franchise and Elections

66. Municipal councils consist of between seven to 45 members elected for a four year term of office by means of the system of proportional representation. The provincial council is elected directly for a four-year term of office. Both the burgemeester and the Royal Commissioner are appointed by the Crown, the burgemeester for a period of six years and the Royal Commissioner for an indefinite period. The burgemeester is independent of the central government while the Royal Commissioner is an agent of the central government.⁸⁹

The Chief Executive

67. The burgemeester is the chairman of the council and the municipal chief executive and as such, is responsible to the municipal council for co-ordinating daily administration, signing, with the municipal secretary, all correspondence and official documents assigned to his authority, representing the municipality in litigation, supervising protection against fire, the maintenance of public order, and performing ceremonial functions. In relation to the central government, the burgemeester has to try and prevent municipal violations of national laws and encroachments on the national interest.⁹⁰

68. The Royal Commissioner is the chairman of the provincial council and is responsible for the expeditious handling of all matters dealt with by the provincial government. He is also responsible to the central government for the execution of national laws and decrees and has some responsibility for the maintenance of public order. The Royal Commissioner also acts as advisor to the central government in the nomination of municipal mayors.⁹¹

Finance

69. The central government of The Netherlands provides generous subsidies to municipal councils, in some cases as much as 90% of the total expenditure. Estimates are prepared in great detail and the

government/.....

government gives assistance in two directions. First of all, centrally-collected taxes are redistributed by way of the Municipal Fund according to a complex formula which takes into account factors such as the size of the population, age groupings, the surface area of the municipality, the density of the built-up area and the cost of social services. This money is allocated by an advisory council consisting exclusively of the representatives of the municipalities and is used to support normal services, i.e., the grants are unconditional. Then there is another fund referred to as the Staatspot and municipalities may compete for funds from this source for special projects. In addition, the central government also gives specific grants for such purposes as police, civil defence, transport, education, cultural and recreational activities, social services, public health and housing. Less than 10% of the total income of Dutch municipalities comes from municipal charges such as dog licences, an entertainment tax and general fees and charges.⁹²

The most striking feature of the Dutch system of central government grants to municipalities, is that the relatively decentralised system of government, and the fact that most of the allocations are done by municipal representatives, results in the municipalities remaining independent and relatively free of central government detailed control.

THE FEDERAL REPUBLIC OF GERMANY

Structure and Functions

70. The Federal Republic is divided into states, provinces, districts and municipalities. Districts may also be units of local self-government. The municipalities are the basic level of a two-tier system of local administration headed by the districts, and the provision of local services is accordingly shared. However, some of the larger municipalities have been detached from the districts and themselves, undertake all governmental tasks within their respective territories. According to the constitution of the Federal Republic, the municipalities have the authority to carry out all public tasks not assigned by law to other authorities and are guaranteed the right to regulate and assume

responsibility/.....

responsibility for all local affairs within the framework of the law. The districts are generally responsible for those tasks which are necessary for the district as a whole or the execution of which exceeds the capability of the individual municipalities. These may include hospitals, road maintenance, social welfare, schools and the supply of water.⁹³

71. There are urban and rural municipalities and structurally there are four forms. The first is the strong mayor-council system in which the council is elected and then itself elects a mayor who is the chief executive. The second is the South German council system in which the mayor and councillors are all directly elected, and the mayor is again the chief executive. The third system is the council-board system under which the council is elected and then appoints a board consisting of from six to 12 councillors to serve as the municipality's executive organ. The fourth system is the council-mayor-director system in which the council appoints the mayor as its political head and a chief executive officer or director for a 12 year term of office. The district council is elected and thereafter elects a board from amongst its members and consisting of from five to 12 persons. The chief executive is either elected popularly or appointed by the council.⁹⁴

Franchise and Elections

72. In respect of municipalities, the period for which councillors are elected is the same for all systems, viz., four years, but the number of councillors varies according to the system followed. In the strong mayor-council system there are five to 51 councillors; in the South German council system there are six to 60 councillors; and in the council-board system there are five to 80 councillors. According to the constitution of the Federal Republic elections are universal, direct, free, equal and by secret ballot. The district council is popularly elected, usually for a four-year period of office, and the number of councillors varies from 21 to 47.

The/...

The Chief Executive

73. The nature of the chief executive varies according to the structure of the local government. In the strong mayor-council system the mayor is the chief executive, responsible for day-to-day administration, preparing matters for the council to consider, implementing council decisions and contesting decisions of the council when they contravene the law. Under the South German council system the mayor is again the chief executive and has the same responsibilities and duties as the strong mayor. Under the council-board system, the board of from six to 12 members chosen from among the councillors, acts as the executive organ. The functions are the same as in the preceding two systems. Under the council-mayor-director system the mayor is the political head of the council and the director is responsible for the same functions as other chief executives. The district chief executive officer seems to have ill-defined responsibilities as the district board carries out decisions, prepares items for discussion and carries out the tasks allotted by the council. However, it must also be borne in mind that the constitution of the Federal Republic provides that the elected council is the supreme and most important organ in the municipality.⁹⁵

Finance

74. Unlike The Netherlands, German cities have to find most of the revenue they need from local sources. This income is derived from a property tax and a tax which is based on a combination of capital, invested turnover and wages paid; it is in fact a business tax.⁹⁶

ISRAEL

Structure and Functions

75. Israel has urban and rural municipalities, village councils, single-purpose municipal unions and regional councils. Urban and rural municipalities are created as juristic persons, the main difference between the two being that there are certain duties which are mandatory for urban municipal councils but not for rural municipal councils. The

mandatory/.....

mandatory tasks of urban municipal councils are the provision of a pure water supply, pavements, sewers, drains, public health, licensing hawkers, pedlars and advertising signs, controlling the erection, repair or demolition of buildings, street lighting, civil defence, traffic regulation, elementary schools, fire fighting and social welfare. Discretionary tasks are housing for the needy and disabled, public baths, regulating the hours certain undertakings may keep, regulating agricultural activities in municipal areas, cemeteries, municipal enterprises and various public health and educational activities. Another important difference between urban and rural municipal councils is that in the case of the rural councils, the central government Commission for Local Government Services determines the staff composition of these councils.⁹⁷

76. Urban and rural municipal councils must elect one of their number to act as mayor and one or more deputy mayors. In addition, each municipality has an executive committee composed of the various political parties represented on the council and headed by the mayor. This committee deals with matters to be brought before the council and advises the mayor and his deputies on the performance of their duties. Other committees exist for the exercise of the council's functions and the number and nature of these committees varies from council to council. Where ad hoc committees are formed up to half of the membership may be persons who are not councillors. However, committees generally have no executive powers and their decisions must be approved by the council before they become valid.⁹⁸

77. The regional councils form a two-tier system with the mainly agricultural villages which are organised along collective lines and undertake purely local services through elected village committees. The regional councils have jurisdiction over all matters affecting the public within their areas but there is a measure of discretion which to some extent enables the two levels to negotiate their respective divisions of functions. The members of the regional council are chosen by the village committees. The regional councils enact by-laws, decide tax levies and approve the annual budgets of the villages in their areas. In addition they can undertake certain tasks for the newer villages which are not in

a position to run their own affairs. These tasks embrace regional schools, major water works, drainage and sewerage systems, maintaining roads, physical planning, social welfare and adult education, taking measures to prevent flooding and soil erosion, anti-malaria work, giving aid to the needy and providing various cultural facilities. Regional councils also co-operate with the central government in improving agriculture and the marketing of produce.⁹⁹

78. Municipal unions arise where two adjoining local authorities agree to act together to provide a specific service. Such a union is administered by a special council consisting of representatives of the participating local authorities. Municipal unions have to be authorised by the Minister of the Interior.¹⁰⁰

Franchise and Elections

79. The members of urban and rural municipal councils are elected by a system of proportional representation based on party lists with elections coinciding with those held for Parliament. The village councils directly elect the members of their village committees. The committees in turn choose representatives to sit on the regional councils in proportion to their adult populations.¹⁰¹

The Chief Executive

80. The mayor is the chief executive of the municipal council and acts as the representative of the municipality and the chairman of its council. The mayor is also responsible for the execution of council decisions, and on behalf of the central government, is responsible for ensuring that the activities of the municipality are in conformity with the law. He also signs contracts and may enforce them. With the approval of the council he may delegate his powers and duties in specific matters to his deputy or deputies, or to an employee of the council.¹⁰²

Finance/...

Finance

81. Israeli municipalities receive nearly 40% of their income from local taxes in the form of a property rate, a general rate, a business tax and licences. The central government gives both general grants and contributions towards services considered to be of a national or semi-national nature. Furthermore, the various government ministries contribute towards the maintenance and expansion of services such as education, health and social welfare. Sometimes these contributions are based on a fixed cost per unit, and sometimes on a fixed percentage of the approved expenditure. The main source of revenue of the regional councils is a rate on immovable property, and with the approval of the regional council, village committees may also levy an additional rate. Strict control is exercised by the central government over the finances, legislation and administrative acts of local authorities.¹⁰³

MEXICO

Structure and Functions

82. Mexico has an interesting system of local government. The municipality is the basic unit of local government and each may consist of a varied grouping of towns, agricultural colonies, ranches, settlements around railway stations, farms, cities and the like, and which may each vary greatly in size of population. One of the units, usually the biggest and most important, is designated as the head of the municipality and becomes the seat of municipal government. The size of the council varies according to the size and nature of the population--see infra. Councils usually meet once a week and approve regulations and by-laws, the adoption of the annual budget and deal with matters concerning municipal services. Apart from administrative and financial services, municipalities may provide police, jails, traffic regulation, public works, slaughterhouses, markets, electricity, sanitation, fire fighting, etc.¹⁰⁴

Franchise and Elections

83. Councils are elected for a three-year term of office and there are three groups of voters, viz., the workers, the peasants and the self-employed, who elect councillors directly according to their groupings.¹⁰⁵

The Chief Executive

84. The mayor, who is directly elected, is the council's chief executive and he is responsible for ensuring that council decisions are implemented, ensuring the safety of the local citizens, and supervising the local administration. In respect of this latter function he may appoint or dismiss the heads of the different departments. Day-to-day supervision over municipal affairs is entrusted to the council secretary, who is an employee appointed by the mayor. An interesting development is the fact that each municipal council has a directly-elected *sindic* who oversees the validity of the procedures and decisions of the council and the actions of the mayor, and who serves as the municipality's legal representative.¹⁰⁶

Finance

85. Mexican municipalities obtain their revenue from common taxes, fees for municipal services and from participation in certain state and federal taxes on gasoline and tobacco and income from business enterprises in which the municipality is associated with private enterprise. Common taxes are local taxes such as sales tax, slaughter tax, business tax, licences, etc. Generally speaking, the state governments exercise very strict control over financial matters but more recently the tendency has developed for state governments also to give technical assistance to municipalities in the fields of tax collection, administration, personnel training and the like.¹⁰⁷

SUMMARY

86. It is proposed to give a summary of the highlights of the countries mentioned supra, under the headings used.

Structure/...

Structure and Functions

87. In all the countries examined there is an elected council which functions as the main representative organ of the community concerned. The use of committees, either single or multiple committees, is also generally common although the strong mayor system in America and Canada appears to remove the need for committees as power is then concentrated in the hands of an elected chief executive. It is worth noting that in America, the weak mayor system is associated with increased council decision-making power. Thus far, South Africa has not contemplated the use of elected municipal chief executives.

88. Another aspect considered significant is the use of what amounts to a two-tier system to meet area-wide needs, or to render services beyond the capacity of individual municipal units. This is clearly emphasised in English local government, and in a Canadian city such as Toronto but also in The Netherlands, the Federal Republic of Germany and Israel, for example, there is a perceived need for some structure capable of rendering area-wide services. In America, on the other hand, in the urban areas where the counties do not function, the compulsion for some kind of overall co-ordination has led to the creation of councils of governments and regional policy councils. It can be expected that these will in time evolve into some sort of regional authority.

89. The services rendered can be broken down into two main groups, viz., basic services such as roads, water, sanitation, etc., and community services which may vary from halls and libraries, fire and traffic services, to welfare, education and police. In fact, it can be said that the provision of basic services is a common or universal task for local government. It is therefore in the field of community services that more variety emerges. Here it might be fruitful to consider police, welfare and education in relation to South African local government. All of these services are local, in the sense that they are needed locally but they are provided by the central government. The result is that local government is deprived of the ability to provide and control services for which a measure of local knowledge and experience could be considered necessary. Subject to reasonable

rules/.....

rules on broad service standards, there is no reason why local government should not provide the services of police, welfare and education. It goes without saying that there would have to be adequate financial arrangements.

Franchise and Elections

90. In European and North American countries the tendency seems to be to base the franchise on residence and not on the ownership or occupation of immovable property. The notable exception is Mexico where representation is divided up between particular interest groups, viz., the workers, the peasants and the self-employed. Unfortunately, the literature available did not indicate whether or not Mexican municipal voters were subject to a universal qualification. As far as South Africa is concerned some attention must necessarily be given to its diverse and divided society in which the reformer is faced with a number of opposing views. If the reform selected, in this case the municipal franchise, is too radical, there is danger of its being rejected by the group currently holding power with the result that some kind of compromise needs to be found. In the case of the Cape Province its local government tradition is based on a property owning or occupying franchise, and this seems a good starting point. It is submitted that the process of reform, once commenced, becomes irreversible, and if significant, evolutionary.

91. Electoral systems as such also vary, from direct elections in England, North America and the Federal Republic of Germany, to proportional representation in The Netherlands and Israel. If the system of direct elections has a disadvantage, particularly in a divided country, it is that it is a "winner takes all" system. South Africa has not yet attempted the system of proportional representation, something which is particularly suitable for a divided country. Although the constitutional model employs the direct election system it may be necessary in the future to give thought to the system of proportional representation.

92. On average, it seems that councillors are elected for from three to four years. This accords with the present Cape system of a four-year term of office for municipal councils.

The Chief Executive

93. There are two main chief executives, those who are elected, as in the case of the mayors in America and Canada and the American commissioners, and the appointed chief executives as in the case of the English Town Clerk and the Dutch burgemeester. Where the chief executive is elected he fulfils a political role as well as an administrative one. The South African municipal tradition is based on the separation of the political and administrative roles, and accordingly the combination of these two roles in South Africa would require a radical re-structuring of local government. It is submitted that this would be likely to lead to confusion and that the greater need is so to define the role of the chief executive that he can function effectively.

94. Notwithstanding the differences between appointed and elected municipal chief executives there are wide areas of similarity in respect of their responsibilities. The following list sets out the common areas in respect of chief executives, except possibly in England:

- 94.1 preparing the annual budget;
- 94.2 executing decisions of the council;
- 94.3 being the leader of the personnel and co-ordinating the activities of the various departments;
- 94.4 acting in a managerial role in relation to the various departments;
- 94.5 giving advice on policy to the council;
- 94.6 reporting to the council wherever necessary or when required to do so.

Finance

95. In England, The Netherlands, Canada and to some extent, in America, central or state governments, or both in some cases, give

generous/.....

generous and often unconditional financial assistance to local government. In Israel and Mexico little financial assistance is given. It would accordingly be expected that centralised control over local government would take place over local government in those countries where financial assistance is given but not in those countries where it is not. However, this is not the case according to the sample of countries examined. In Israel and Mexico central or state government control is quite strict while in The Netherlands where almost all municipal revenue is from central government sources, there is a surprising amount of independence of action. Likewise, the English, American and Canadian block or unconditional grants seems to attract general rather than detailed control. It is understandable that, given the large spending power of local government it is unrealistic to expect a central government to abstain totally from control. Where the problem lies is the manner and degree of the control exercised. As discussed elsewhere in this study, an over-regulatory system of control stifles initiative, blurs accountability, prevents innovation and may even lead to corruption. The most desirable course, therefore, seems to be for the central government to lay down broad policy guide-lines and to exercise control rather by influence and leadership than by prescribing in detail how policies are to be implemented.

SOUTH AFRICA

95. This purpose of this section is briefly to trace the trends, if any, towards a metropolitan approach to municipal government in South Africa.

Cape Town and the Cape Peninsula

96. As pointed out in Chapter One, the intention of the City of Cape Town Unification Ordinance, 19 of 1913, was stated to be to provide for the combination and better¹⁰⁸ government of eight municipalities in the Cape Peninsula: later, in 1927, the Wynberg Municipality was also combined with the enlarged Cape Town Municipality. Furthermore, from time to time areas from the area of the Divisional Council of the Cape, such as Bergvliet, Meadowridge, Bishopscourt, Thornton and

Kirstanhof/.....

Kirstenhof, for example, were incorporated into the Cape Town Municipal area.¹⁰⁹ Subsequently, the Report on the Metropolitan Municipal Authority for the Cape Peninsula was issued during December, 1966. This report is referred to in this study as the Slater Two Report and the enquiry into the administration of the City of Cape Town, of which Slater was the sole commissioner is referred to as the Slater One Report.

97. The background to the Slater Two Report was that between 1961 and 1963 a judicial commission of enquiry, commonly known as the Diemont Commission, examined the administration of the Cape Town Municipal Town Planning Scheme.¹¹⁰ After examining the causes of maladministration, defects and delays, the Diemont Commission asked, in relation to the question of councillors administering the town planning scheme executive-ly, whether the time had not arrived to draw a line of separation between deliberative and executive powers, as was the case with the central government. The Commission stated that the administration of a big city had become complex, and that local government had progressed far beyond the stage of a few people, with unqualified aid, attempting to improve village amenities in a haphazard way. The Commission asked the Administrator of the Cape to consider whether the time had not arrived for more sweeping constitutional changes to be introduced in the local government administration of cities in the Cape Province, considering the success of the Transvaal system resulting from the Marais Commission in that Province.¹¹¹

98. The Administrator did not launch a general investigation into local government in the Cape Province but appointed a commissioner to enquire into the system of local government which applied to the City of Cape Town and the report of this Commission is referred to as the Slater One Report. The Slater One Commission visited cities in Europe, the United Kingdom and North America, and after examining systems of metropolitan or regional government in those countries, expressed concern at the future of the Cape Peninsula and the administrative, financial and socio-economic problems the area would encounter by the year 2000 if no action was taken.¹¹² The Slater One Commission recommended that urgent consideration be given to the possible establishment of a metropolitan service authority to cover the Peninsula and surrounding areas so to provide for/....

for future urban growth, and that in the meantime, no further local authorities should be established in the Peninsula area.¹¹³

99. Some time before, on 10th November, 1961, the Administrator of the Cape had given notice of his intention of establishing new municipalities for the Divisional Council Local Areas of Bergvliet, Meadowridge, Constantia, Grassy Park, Hout Bay, Thornton and Bishopscourt Estate. This last area was not a proclaimed local area, i.e., it was deemed to be a "rural" area. The Administrator had also invited comments on the institution of Village Managements Boards for Bloubergstrand, Kommetjie and Melkbosstrand, all of which were Divisional Council local areas; and a Local Board for Epping Garden Village.¹¹⁴ It should be noted that village management boards and local boards have disappeared from current Provincial legislation in the Cape--see Chapter One.

100. Strong objections were lodged against these proposals, their gravamen being that separate municipal or village status would be too costly for the local communities and that either the status quo should be retained or, as in the case of Thornton and Bishopscourt Estate, these areas should be incorporated into the Cape Town Municipal area. The Divisional Council of the Cape suggested that Bergvliet, Meadowridge and Bishopscourt Estate should be included in the Cape Town Municipal area; that Thornton and Epping Garden Village should be incorporated either into the Pinelands or Goodwood or Cape Town Municipal areas; and that the other areas should remain under Divisional Council jurisdiction. In the end the Administrator postponed the matter sine die.¹¹⁵

101. After a demographic, financial and administrative study of the Peninsula area, the Slater Two Report stated that the development of the municipalities in the metropolitan area had largely been haphazard, with imbalances in the planning and provision of civic amenities and services between older and newer areas. Furthermore, there was no single authority actively to promote the physical development of the whole area, and, given the influx of population and economic growth, such development was inevitable.¹¹⁶ There were also fundamental and

irreconcilable/.....

irreconcilable weaknesses in the then existing law on local authorities in the Cape, which apart from permitting municipalities, village management and local boards, also permitted divisional councils and local areas. Local areas were acceptable in those divisional councils which were truly rural in character but in the Cape Peninsula this amounted to occasional and casual urbanisation, made worse by the fact that local areas were supposed to be self-financing but were not always so because of heavy initial development costs.¹¹⁷

102. As a result of the haphazard creation of municipalities, the tax burden between municipalities had become distorted because some municipalities, such as the City of Cape Town, were expected to tackle vast housing schemes and to subsidise them, while other municipalities escaped all liability whatsoever. The ratios of population distribution between white and coloured were inconsistent but that ratio determined the local tax burden to some extent, i.e., where housing and services had to be subsidised. Despite this all local authorities shared in the labour obtained from those living in housing schemes.¹¹⁸ The underlined words are a strong argument for a metropolitan system of local government. Another factor was that the City of Cape Town provided certain regional services, viz., water, electrical power, fire protection to some extent, sewage disposal, beach amenities, housing, an ambulance service and a regional fresh produce market and abattoir. The Divisional Council of the Cape also rendered certain regional services, namely, roads, local health services and recreational services.¹¹⁹ The Report recorded that the City of Cape Town would not wish to fill the role of general metropolitan authority, yet such an authority was needed as the Cape Peninsula was a classic example of the metropolitan problem of urbanisation requiring co-ordinated action for the economical and efficient planning and maintenance of area-wide services which fell under fragmented civic control.¹²⁰

103. The Slater Two Commission suggested a number of broad approaches to the problem as possibilities for consideration. One solution of the problem would be annexation or the incorporation of peripheral areas

into/.....

into the spreading municipality. Annexation, however, could proceed to the stage where the incorporating municipality grew so large that local government as such, and hence local democracy, ceased to exist. The absorption of the other local authorities into Cape Town was neither practicable nor a solution to the problem. Another solution would be the creation of special function authorities, a solution frequently resorted to in the United States of America. This amounted to creating special authorities to handle specific single functions such as water provision, cemeteries, etc. It had been suggested that a Cape Peninsula Water Board be constituted but this would not be the answer to the area's problems nor would a number of special authorities provide the general answer.^{120A} Yet another solution would be the creation of an appointed authority in terms of which municipal services would be operated by a body appointed by the central government as is the case in Washington, D.C., or Paris. Such an authority would have to levy rates and an appointed body would suffer from the fatal defect of taxation without representation. Finally, consideration could be given to a federal or two-tier system, in terms of which the municipalities in the area would continue to be responsible for certain functions and a metropolitan municipal authority which would, as the upper tier, be responsible for services essentially required on a metropolitan scale. Each tier would retain its autonomy and both would be answerable to the Cape Provincial Administration. The Greater London Council and its predecessor had functioned for eighty years and during that time London had continued to grow, while the general consensus of opinion in Toronto was that the Metropolitan Municipality had rendered outstanding service in promoting the general development of its area.¹²¹

104. The Slater Two Commission recommended the establishment of a two-tier system for Greater Cape Town, with the Divisional Council of the Cape being abolished in its traditional form and converted into the metropolitan authority.¹²² The functions suggested for the metropolitan authority were the following:

Area/...

Area-Wide Services

- 104.1 Planning in its broader aspects.
- 104.2 Housing for "non-Whites".
- 104.3 Amenities, including beach amenities for "non-Whites".
- 104.4 Bantu administration, as it was then known.
- 104.5 Water supply.
- 104.6 Local health services, excluding the City of Cape Town.
- 104.7 Sewage disposal works and trunk sewers.
- 104.8 Ambulance services.
- 104.9 Cemeteries.
- 104.10 Control of beaches, excluding the then existing
municipal beach areas not set aside for "non-Whites".
- 104.11 Special works.

Services outside Municipal Areas

- 104.12 The take-over of the existing responsibilities, assets
and liabilities of the Divisional Council of the Cape.
- 104.13 The conferment of full municipal powers.

Concurrent Powers

- 104.14 By agreement with one or more municipalities, the
undertaking of a service on their behalf within the
municipality concerned.¹²³

105. It will be noticed that the above formulation would have left the Cape Town City Council with the regional functions of electric power generation and distribution, the fresh produce market and the abattoir both of which did and still, function as regional services. This seems to be a curious anomaly but was no doubt meant to encourage Cape Town to accept the new dispensation. If this was the motive, it did not succeed.

106. The/...

106. The Slater Two Report recommended the constitutional and functional structure of the proposed metropolitan council. First of all, the metropolitan authority should be a municipality, i.e., a corporate body governed and represented by an elected council and the qualification for enrolment as a voter should be the ownership or occupation of ratable property. Elections should be according to the ward system with one councillor per ward for fifteen proposed wards, and the period of office for councillors should be four years. Furthermore, the metropolitan council should be elected prior to the expiry of the periods of office of Divisional Councillors, and the metropolitan council should first appoint its key officials before taking over the functions of the Divisional Council, and as a final step, assuming its full functions. In addition, because of the exceptional nature of the metropolitan authority and the special attention which should be paid to the future development of the area, there should also be five councillors appointed by the Administrator of the Cape. In other wards, out of a total of twenty councillors, one-quarter would be appointed and not elected. With regard to the eligibility of metropolitan councillors, municipal councillors should be permitted to stand for election as metropolitan councillors and the metropolitan council should not have a mayor because it would function mainly as a service authority, and the person occupying this office should be known as the Chairman. The Administrator should appoint the first Chairman. The chief executive of the metropolitan authority should be known as the secretary and not the town clerk for similar reasons, to whom the functions of the Town Clerk of Cape Town as set out in sections 15 and 16 of the Municipality of Cape Town Administration Ordinance, 24 of 1965, should be applied. With regard to systems, the executive or management committee system should be applied to the metropolitan council, with a membership of five councillors but the metropolitan council should also be permitted annually to appoint not more than four standing committees and provision should also be made for the delegation of powers to standing committees and officials. There should also be one service commission to serve the metropolitan council and all the municipalities in the metropolitan area. The metropolitan council should be authorised to levy a general rate but

on/.....

on a differential basis depending on the degree of development of the areas concerned. A health rate fixed on the same basis should also be levied. All rates should be adjusted up or down on the norm depending on the extent of the services provided in particular areas, and also taking into account any special benefit which may accrue to a particular area. Finally, the metropolitan council was not envisaged as being permanent, and should fall away once the metropolitan area had been fully developed, so that the future boundaries of municipalities should be revised so as to allow for them to be viable once the metropolitan authority had ceased to exist.¹²⁴

107. While the general scheme and approach of the Slater Two Report is laudable, there are some recommendations which now seem naive, e.g., that a metropolitan authority could be temporary when all the indications are that if it succeeds it will become an essential part of the local government of the region, in addition to which circumstances in the metropolitan area have changed to such an extent that a complete review is needed of the assumptions in the Slater Two Report.

The Views of the Cape Town City Council

108. The Cape Town City Council did not agree with the Slater Two Report and expressed itself vehemently on the matter in a Memorandum consisting of thirty-nine pages.¹²⁵ One of the City Council's main objections to the idea of a metropolitan authority were that the Slater Two Report had been too broad, with not enough detailed investigation and research, and the Commissioner had not sought the views or explored the experience and knowledge of any of the local authorities concerned. The Report was described as superficial and not related to the reality of the local situation.¹²⁶ The City Council also stated that the problems of the Cape Peninsula were relatively minor compared to metropolitan areas in other countries, where cities had larger populations. There was no chaos or crisis in the Cape Peninsula, nor was there any conflict or overlapping between the different local authorities. A system evolved with such care and attention should not be tampered with

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in favour of a revolutionary new system which would probably destroy the local government system and reduce old-established and proud municipalities to glorified maintenance organisations. Before embarking on a theoretical new system it would be wiser to evolve improvements on the well-tried basis of the past.¹²⁷

109. The City Council admitted the need for a regional planning authority and stated that such a body should be created, but as it was doubtful whether a metropolitan council could be created to be strong enough to implement regional planning decisions, it was of the opinion that those decisions ought to be implemented on a decentralised basis.¹²⁸ The City Council was prepared to tolerate the existence of the Divisional Council of the Cape, unjust and unbalanced as the system was, as the Divisional Council was primarily a rural authority not of particular concern to the affairs of the Cape Town Municipality, but the City Council objected to having only eight, elected, representatives out of fifteen elected metropolitan councillors as two-thirds of the population and 74% of the total valuation in the Cape Division were centered in the Cape Town Municipal area.¹²⁹ The appointment by the Administrator of five councillors and the first chairman would be a direct negation of the citizen's democratic right to choose his representatives and these notions had been emphatically rejected in the Slater One Report. Furthermore, the application of the ward system would cause tremendous confusion and lead to apathy because there would then be municipal, metropolitan, Provincial and Parliamentary elections. The mechanics of operating two separate voters' rolls would also be cumbersome and expensive.¹³⁰

110. The City Council also alleged that the creation of a metropolitan council would in turn create considerable duplication of staff as the City Council would need to retain its personnel to perform its own functions.¹³¹ The taxing proposals in the Slater Two Report would result in the more developed areas subsidising the less developed areas beyond the amount hitherto obtained by the Divisional Council of the Cape. The spreading of the tax burden on a more equal basis, which would include the whole area paying for services exclusively paid for

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by Cape Town, would not be acceptable to other municipalities in the area.¹³² In reviewing municipal boundaries for the creation of amended municipalities great care should be exercised to ensure that municipalities were not created which would not be financially viable, bearing in mind that the greatest providers of rate income were the central business district and industrial area. Although annexation was rejected in the Report, the problems of the local areas of the Divisional Council could be solved by this method.¹³³ Cape Town is the mother of local government in Southern Africa and had led the way for more than a century in most fields of local government endeavour. It is the legislative seat of the Republic, it was the most powerful local authority in the metropolitan area, and it already provided certain services on a regional basis. The Report proposed the emasculation of Cape Town, a City which, with the bustling smaller municipalities which it had spawned on its borders, is the brightest jewel in the crown of the Province of the Cape of Good Hope. The Divisional Council of the Cape, on the other hand, while it had rendered signal services in its limited field in the past, was neither equipped, qualified, staffed, experienced nor developed enough to assume the role of metropolitan authority.¹³⁴

Comments on the City Council's Comments

111. The need for a metropolitan authority, i.e., whether this is justified or not, will be discussed in Chapter Seven. What follows are some comments on the views expressed by the Cape Town City Council. If the Slater Two Report had not been thorough enough, it would have been expected that the deficiencies would have been more directly exposed by the City Council but this was not done. However, in relation to that point, it is submitted that this study has proved that the problems of the Cape Peninsula cannot be dismissed as being minor. The argument against new revolutionary systems in favour of trusted traditions is the expected response of those who, in looking backward, are unable to perceive the probabilities of the future. The whole thrust of changing governmental systems is aimed at reasonably certain expectations that the events in the past will give rise to the need for changes in the future. The admission that a regional planning authority is needed is a

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tacit admission that a fragmented approach cannot solve problems common to the whole area. The argument that regional planning decisions should be implemented on a decentralised basis could be supported if properly motivated but not on the argument that it would not be possible to create a strong enough metropolitan authority.

112. The City Council's objections to the method and quantity of representation could be supported, if metropolitan councillors were to be directly elected as proposed, as the appointment of local councillors and office-bearers by someone in a higher level of government is inherently wrong, contrary to democratic notions, and any objections to this should be supported. The duplication of staff can be avoided by careful planning, and particularly by the use of the technique of organisation and methods. In any case, if functions were transferred from the City Council to another body, the staff involved would necessarily also have to be transferred. As far as the spreading of the tax burden is concerned, if a service is regional its costs should be shared by all even if this would result in some paying more, and some paying less, in rates. It is likely that in the first few years of the life of a metropolitan authority there will be taxing policy problems but the principle that ought to be applied is whether or not a particular tax is just.

113. It is agreed that great care should be taken to create financially viable municipalities: it is a pity that this principle was not followed in the past. If a service is needed on a regional basis, it can be expected that central business districts and industrial areas should make appropriate financial contributions in their own interests. It is clear that for the foreseeable future in the Greater Cape Town area the richer areas will have to subsidise the poorer areas if conflict is to be avoided. Finally, even if Cape Town is the mother of local government in Southern Africa mere filial piety is a poor argument to block progress. It is doubtful whether Cape Town spawned the smaller municipalities in the region as informal enquiries indicate that most of them were areas formerly under the control of the Divisional Council and developed by that Council up to the stage where they were suitable for separate municipal status or incorporation. Although the City Council

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suggested annexation as a solution to the problems of poorer areas, further informal enquiries reveal that no such requests have been made to the Divisional Council in respect of Grassy Park or Elsies River.

114. The City Council's comments can be construed as an attempt to retain the position and power it enjoys as one of the largest cities in the Republic but those comments do not disprove the need for and probable effectiveness of, a form of metropolitan municipal government. As a metropolitan authority did not emerge it must be concluded that the City Council's comments must have been accepted by the Provincial Administration as the last word on the matter.

DURBAN

Background

115. The Town Clerk of Durban states that his Council's involvement in metropolitanisation arose from the establishment on 20th January, 1977, of the Durban Metropolitan Consultative Committee by the Natal Provincial Administration, and this flowed from the submission by the Natal Town and Regional Planning Commission of a Metropolitan Durban Draft Guide Plan. The Durban Metropolitan Consultative Committee has formed a number of Working Parties to deal with specific matters and has appointed an Executive Committee which, after considering the reports of the Working Parties, reports to the main Committee. The land area covered by the Durban Metropolitan Consultative Committee includes twenty local authorities from Canelands in the north to Lower Illovo in the south, and stretching into the interior as far as Hillcrest. While the Committee is consultative it was established for the purpose of preparing a memorandum for the Administrator-in-Executive Committee on a proposal that a metropolitan and utilities board be formed to deal with services in the Durban Metropolitan Area on a regional basis. This task involved a considerable amount of information-gathering at the local level as well as a visit to Canada and the United Kingdom.¹³⁵

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The Nature of Metropolitanisation and its problems

116. The Durban Metropolitan Consultative Committee was addressed by the Director of the Institute for Urban Studies, Rand Afrikaans University, and a few salient points from this address are recorded infra.

The characteristics of a metropolitan area

117. The main characteristics of a metropolitan area were that it usually consists of a mother city surrounded by a number of satellite local authorities but conceptually it also consists of multiple jurisdictions, i.e., a multitude of nuclei formed by concentrations of employment of varying size. In addition, a metropolitan area is an area of intense movement of people, goods and services and in the spatial sense it is a functioning unit economically and in a circulatory sense. A metropolitan area can be described as an open system with a number of sub-systems and the multiple jurisdictions encountered may be either on a horizontal level in the form of different local authorities, or vertical, in the sense of higher governmental bodies. A metropolitan area is an area forming one unit with a common focus, and with the outer areas fairly undefined and it differs from a large city in that the former offers a wider range of choices while the latter has an economy usually based on a single or two major economic activities. The degree of urbanisation in a metropolitan area tends to be more intense.¹³⁶

Motivations for a metropolitan approach

118. The motivations for a metropolitan approach can be described as the widening and growing intensity of inter-relationships and inter-dependencies within the metropolitan area and the need to co-operate and to co-ordinate. The Central Government in South Africa is carrying planning down to a regional level and there are overlapping regional urban needs separate from those of individual local authorities. Where a metropolitan authority is introduced there are economies of scale

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gained from acting on a wider basis i.e., the cost of providing services on a bigger scale is, within certain limits, cheaper than providing those same services on a fragmented basis.¹³⁷

119. The resistance to metropolitanisation is based on fears that local authorities will become too big for meaningful public participation, and so impersonal as to inhibit the development of a sense of community.¹³⁸

The objectives of metropolitan organisation

120. The objectives of metropolitan organisation ought to be, in the first place, to deal with problems of a metropolitan nature, or in other words, problems which are large enough in scale as to relate to the whole area and to reduce the negative internal and external effects of metropolitan action, i.e., the possible negative effects in one component of the area when action is taken in another component, so as to promote positive action. The overriding intention should be that the whole metropolitan area should benefit from action taken. Further objectives of metropolitan organisation ought to be to co-ordinate financial resources and to render services on a metropolitan scale. This brings about economies of scale, prevents duplication, promotes specialisation and the better use of manpower, and permits the introduction of more sophisticated systems. Finally, another objective ought to be to rationalise metropolitan information systems as part of the total planning process.¹³⁹

Methods of achieving metropolitanisation

121. There are various methods by which metropolitanisation can be achieved and the first can be described as the one-government approach by which there is one local authority. This may be brought about by consolidating different local authorities into one or by annexation, in which a core local authority annexes the territory of the others. Another part of this approach is the city-county

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consolidation in which municipalities are consolidated with a county. The second approach is the two-tier approach, which provides for the distribution of powers and functions between the metropolitan authority and a sub-system of municipalities. There are three subdivisions in the two-tier approach. The first of these subdivisions is the special or single-purpose authorities which provide one service on a metropolitan basis, such as transport, water or education but the international trend is away from single-purpose bodies because they lack the co-ordinative function of multi-purpose bodies which are forced to look broadly at priorities. The second subdivision is the transfer of power to a higher tier of government, which deprives local communities of local participation and decision-making, and the third subdivision is federation, which amounts to the creation of a new level of government with special functions while the local authorities below continue with their original functions. Finally, of the three main approaches to metropolitanisation, the third is the co-operative approach, in which the metropolitan local authorities retain their jurisdiction and status by voluntarily agreeing that mutual problems and interests should be discussed and solved together but those who attend these discussions usually lack power. A sub-system to this is formal agreements whereby one local authority in a formal legal document agrees to provide a service to or on behalf of one or more other local authorities.¹⁴⁰

The Constitution of the Durban Metropolitan Consultative Committee

122. This constitution makes all the expected procedural arrangements and it is the portions dealing with powers, functions and representation which are the real meat of this document. The powers of the Committee are as follows:

- 122.1 it may at any time extend the boundaries of the Durban Metropolitan Area should the need arise;
- 122.2 the Committee may itself decide on its functions and extend those functions to any local authority matter or decide how far it wishes to progress;

122.3/.....

122.3 the Committee will not have administrative or legislative powers but will be limited to making recommendations to constituent local authorities in regard to bona fide local authority matters;

122.4 the Committee may recommend increases or decreases in the number of representatives, and should its status be changed to that of a more authoritative body, the Administrator would have to be requested to convene a meeting of all concerned for a discussion.¹⁴¹

123. The functions of the Committee are to consider the overall planning of the area, including land use, planning of school, hospital and housing scheme sites, as well as the question of services for the area, and to give particular consideration to certain specific services. These are water, sewerage, refuse removal, electricity, cemeteries, fire services, ambulances, civil defence, standardisation of by-laws, health services, accounting and administrative services, major recreational and cultural facilities and beaches, regional traffic control, and transportation.¹⁴²

124. The representation of the Committee may be changed--see paragraph 122.4 supra-- but subject to this, the representation on the Committee consists of six representatives nominated by the Durban City Council of whom one must be a member of the Natal Association of Local Affairs Committees, i.e., an indian, and two representatives nominated by the Pinetown Town Council, who will also look after the interests of the Marianhill Health Committee. The other boroughs in the metropolitan area have one nominated representative each and there is one representative nominated by the Hillcrest Town Board, who will also look after the interests of the Health Committees of Everton and Gillitts-Emberton. The Health Committees of Canelands, Illovo, Umboqintwini and Yellow-Wood Park also have one representative each, and finally, one representative is nominated by the Natal Development and Services Board.

The Regionalisation of Services in the Durban Metropolitan Area

125. The Secretary of the Durban Metropolitan Consultative Committee

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asked his Committee to select the services for separate metropolitan and local treatment in the light of detailed analyses of the situation in Greater London, Greater Vancouver, Montreal and Toronto.¹⁴³

One of the annexures to this report was an extract from an earlier and undated report of an enquiry into the regionalisation of municipal services in the Greater Durban area. This annexure stresses the need for forward planning to meet future circumstances without wasting expenditure. The document goes on to express the view that local authorities cannot voluntarily be brought to organise effective co-operative action, and consequently the local authorities concerned should be urged to accept an elected metropolitan multi-purpose service authority to be created by a Provincial Ordinance, with a total of not more than thirty councillors being nominated by their parent local authorities. The functions of this metropolitan body should be the following:

- 125.1 co-ordination of physical planning;
- 125.2 planning for and control over bus transport and traffic control;
- 125.3 public health and water supply;
- 125.4 cemeteries and crematoria;
- 125.5 raising development loans;
- 125.6 establishing one accounting and debt collection service for the whole area;
- 125.7 any municipal service at the request of and by agreement with one or more of the area local authorities;
- 125.8 normal municipal powers should be conferred, including the power to levy taxes or tariffs, the former to be on a differential basis where services are not rendered equally throughout the area.¹⁴⁴

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126. If any main item of criticism can be levelled at the formula proposed above it is in respect of paragraph 125.7, the provision of municipal services by request and agreement. If the need to embark upon a metropolitan form of local government stems from the need for co-ordination in planning, the more economical use of resources and the economies of scale which result, then, it is submitted, the rendering of what are called municipal services, such as roads, water or sewerage, for example, ought to proceed from a basis of co-ordinated planning and action, and to leave this action dependent on some future possible agreement is to entrench the present position, i.e., a lack of co-ordination and regional planning.

CONCLUSION

127. The few overseas countries examined have revealed that there is a rich variety of overseas experience from which South Africa can learn lessons about the reform of local government, not the least of which is that there can exist in one country a range of different municipal systems, e.g., America or the Federal Republic of Germany. Another lesson to be learnt from overseas experience is the need for financial support for local government whether it be by way of a re-distribution or sharing of tax revenues. If the obvious needs to be stated, it is this: that local government only flourishes and grows where there is participation in local government by the people living in the area. It may in South Africa be a distant goal but if positive action is taken to correct the social and economic imbalances that exist, then it becomes a goal worth striving for.

128. Under the heading of conclusions, it is also necessary to offer some comment on the role of the municipal chief executive. Whatever his responsibilities may be, it should by now be clear that that effective and responsive local government has a better opportunity of being realised where the chief executive has his role defined with sufficient clarity as to enable him to meet community goals and objectives, i.e., his role must be so defined as to allow him to work in the right direction, and he must be given the authority to carry out his tasks.

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129. In the South African context, and in respect of the Greater Cape Town area, it is disturbing that so little has been done since 1913 to co-ordinate local government growth and development in the area with a view to solving problems and promoting the growth of a healthy and vigorous local democracy. In this regard, mention has to be made of the negative attitudes of the Cape Town City Council as a result of which needed reforms have been blocked. The Cape Town City Council still holds to this view, having recently declared its implacable opposition to any move towards metropolitanisation.¹⁴⁵ In respect of the Durban area, however, it does seem that the idea of introducing a metropolitan approach has a chance of success, and if this comes about, it may result in the idea spreading.

130. Before concluding this Chapter it may be fruitful to refer to Riggs' explanation of the difference between developed and developing societies, for which he uses the terms prismatic and diffracted. In essence, a diffracted society is industrialised and developed so that, as light passing through a prism is broken up into primary colours, so different academic disciplines, such as political science, public administration, economics, sociology, etc., separate and lead to the formation of sub-structures in the society. In the case of prismatic society, it is a developing society in a transitional stage where there is a large degree of centralisation.¹⁴⁶

131. It is submitted that South Africa, despite its mixed First World/Third World societal mix, has reached the stage where, in respect of local government, consideration can be given to diffraction in the larger urban areas, particularly as the solutions to the problems in these areas are more likely to be successfully found through local decision-making. Centralised decision-making, up to the present, does not seem to have found satisfactory solutions.

NOTES/...

NOTES

1. Peter G. Richards, The Reformed Local Government System, p. 51.
2. Dilys M. Hill, Democratic Theory and Local Government, p. 190.
3. Richards, op. cit., p.40.
4. This is a summary from Richards, op. cit., pp. 177-178.
5. British Information Services, Local Government in Britain, pp. 12-13.
6. Richards, op. cit., p. 172.
7. Richards, op. cit., p. 2.
8. Jeffrey Stanyer, Understanding Local Government, pp. 48-49 and Richards, op. cit., pp. 38-39.
9. From the same sources as given in n. 7 and n. 8.
10. Richards, op. cit., p. 172 and the British Information Services, op. cit., p. 5.
11. W. Harvey Cox, Cities : The Public Dimension, pp. 19-21.
12. British Information Services, op. cit., pp. 14-15 and Hill, op. cit., p. 188.
13. Richards, op. cit., p. 172 and the British Information Services, op. cit., p. 5.
14. British Information Services, op. cit., p. 5.
15. British Information Services, op. cit., pp. 9-10.
16. Stanyer, op. cit., pp. 105-106; Richards, op. cit., pp. 54-55; and Hill, op. cit., pp. 134-135.
17. British Information Services, op. cit., p. 11; Stanyer, op. cit., p. 96.
18. Hill, op. cit., pp. 55-58.
19. Stanyer, op. cit., pp. 105-106; Hill, op. cit., p.134; Richards, op. cit., p. 114; and the British Information Services, op. cit., pp. 7-9.
20. Richards, op. cit., p. 113; Hill, op. cit., p. 137.
21. Hill, op. cit., p. 137.
22. Stanyer, op. cit., p. 166; Hill, op. cit., pp. 77-78.
23. Hill, op. cit., p. 77.
24. L. Hill writing in A Century of Municipal Progress 1835-1935; edd. Laski Jennings and Robson, p. 121.
25. Herman Finer, English Local Government, pp. 231-232.
26. T.E. Headrick, The Town Clerk in English Local Government, p. 29.
27. The Maud Committee Report, pp. 26-27.

28. The Maud Committee Report, pp. 28-29.
29. The Maud Committee Report, pp. 40-42.
30. The Maud Committee Report, pp. 40-47.
31. The Bains Committee Report, p. 1.
32. The Bains Committee Report, pp. 23-26.
33. The Bains Committee Report, pp. 40-42 and Appendix J on p. 165.
34. John Stewart, Municipal and Public Services Journal, February, 1976, p. 148.
35. Hill, op. cit., pp. 93 and 95-96.
36. British Information Services, op. cit., pp. 16-17.
37. British Information Services, op. cit. pp. 17-18.
38. Richards, op. cit., pp. 97-100.
39. Hill, op. cit., pp. 198-199.
- 39A. Samuel Humes and Eileen Martin, The Structure of Local Government, pp. 356-360.
40. Humes and Martin, op. cit., p. 357 and Nicholas Henry, Public Administration and Public Affairs, pp. 389-390.
41. Humes and Martin, op. cit., p. 360.
42. Felix A. Nigro and Lloyd C. Nigro, Modern Public Administration, p. 151.
43. Henry, op. cit., pp. 397-402.
44. Nigro and Nigro, op. cit., pp. 151-152; Henry, op. cit., pp. 385-386; Melvin B. Magulof, Governing Metropolitan Areas, pp. 1-2.
45. Henry op. cit., pp. 387-388 and Nigro and Nigro, op. cit., pp. 151-152.
46. Humes and Martin, op. cit., pp. 357 and 360.
47. Humes and Martin, op. cit., pp. 357-360.
48. Humes and Martin, op. cit., pp. 164-165.
49. Humes and Martin, op. cit. pp. 360-361.
50. Humes and Martin, op. cit., pp. 357-358.
51. Henry, op. cit. p. 326.
52. Henry, op. cit., pp. 327-328 and Humes and Martin, op. cit., pp. 357-358.
53. Humes and Martin, op. cit., pp. 358-359 and Henry, op. cit., pp. 326-327.
54. Humes and Martin, op. cit., p. 359 and Henry, op. cit., pp. 328-329.
55. Henry, op. cit., p. 329.

56. Henry, op. cit., p. 405.
57. Nigro and Nigro, op. cit., pp. 141-142 and Humes and Martin, op. cit., p. 360.
58. Henry, op. cit., pp. 408-409.
59. Henry, op. cit., pp. 409-414 and Nigro and Nigro, op. cit., pp. 142-145.
60. Humes and Martin, op. cit., pp. 329 and 333.
61. Humes and Martin, op. cit., pp. 329-330 and 333.
62. Humes and Martin, op. cit., pp. 330-331.
63. Humes and Martin, op. cit., p. 331.
64. Humes and Martin, op. cit., p. 331.
65. Humes and Martin, op. cit., pp. 331-332.
66. Humes and Martin, op. cit., 333-334.
67. Humes and Martin, op. cit., p. 334.
68. Humes and Martin, op. cit., pp. 331-332.
69. Humes and Martin, op. cit., p. 334.
70. Humes and Martin, op. cit., p. 332.
71. Humes and Martin, op. cit., pp. 330-333.
72. Humes and Martin, op. cit. pp. 330-331, 333 and 334.
73. Humes and Martin, op. cit., pp. 332 and 334.
74. Humes and Martin, op. cit., pp. 332-333.
75. Paragraphs 50-52 are derived from The Metropolitan Toronto Government, anon, November, 1979, pp. 1-4; and The Royal Commission on Metropolitan Toronto, Update, pp. 1-2.
76. The Royal Commission on Metropolitan Toronto, Update, pp. 1-2.
77. Vol. 1 of the Report of the Royal Commission, p. xv.
78. Vol. 1 of the Royal Commission Report, pp. 42-45, 50-51 and 62.
79. Vol. 2 of the Royal Commission Report, pp. 67-68, 74 and 83-84.
80. Vol. 2 of the Royal Commission Report, pp. 85-87 and 89.
81. Vol. 2 of the Royal Commission Report, pp. 103-104, 104-105, 105-109.
82. Vol. 2 of the Royal Commission Report, pp. 110-111 and 112-113.
83. Vol. 2 of the Royal Commission Report, pp. 118-122.
84. Vol. 2 of the Royal Commission Report, pp. 190-196, 200 and 209.
85. Vol. 2 of the Royal Commission Report, pp. 217-219.
86. Montreal Urban Community, Annual Report, 1973, pp. 1-9.

87. Humes and Martin, op. cit., pp. 576-577 and 580.
88. The Slater One Report, p. 99 and Humes and Martin, op. cit., pp. 576-577 and 579-580.
89. Humes and Martin, op. cit., pp. 577-578 and 580.
90. The Slater One Report, p. 98 and Humes and Martin, op. cit., p. 578.
91. Humes and Martin, op. cit., pp. 579-580.
92. The Slater One Report, p. 99 and Humes and Martin, op. cit., p. 579.
93. Humes and Martin, op. cit., pp. 542 and 545.
94. Humes and Martin, op. cit., pp. 543-544-545.
95. Humes and Martin, op. cit., pp. 542, 543-545.
96. The Slater One Report, p. 100.
97. Humes and Martin, op. cit., pp. 443-445.
98. Humes and Martin, op. cit., pp. 445-446.
99. Humes and Martin, op. cit., pp. 447-448.
100. Humes and Martin, op. cit., p. 449.
101. Humes and Martin, op. cit., pp. 445 and 447.
102. Humes and Martin, op. cit., pp. 445-446.
103. Humes and Martin, op. cit., pp. 446-447 and 448.
104. Humes and Martin, op. cit., pp. 345-346.
105. Humes and Martin, op. cit., p. 345.
106. Humes and Martin, op. cit., p. 346.
107. Humes and Martin, op. cit., pp. 346-347.
108. Author's underlining.
109. The exact dates are not known but these areas are no longer featured as local areas in the 1979 report of the Chairman of the Divisional Council of the Cape.
110. Report of the Commission of Enquiry into The Administration of the Town Planning Scheme of the Cape Town Municipality (The Diemont Commission), 1st March, 1963.
111. See paragraph 33 of Chapter Five of the Diemont Commission Report.
112. Paragraphs 309-312 of the Slater One Report.
113. Paragraph 313 of the Slater One Report.
114. Paragraph 109 of the Slater Two Report.
115. Paragraphs 110-122 of the Slater Two Report.
116. Paragraphs 126-128 of the Slater Two Report. Compare this with the motivation for a metropolitan system for Toronto.

117. Paragraphs 134-140 of the Slater Two Report.
118. Paragraphs 143-157 of the Slater Two Report. Author's underlining.
119. Paragraphs 158-163 of the Slater Two Report.
120. Paragraphs 165-167 of the Slater Two Report. Author's underlining.
- 120A Clearly this would be because the overall co-ordination, overall political control and the economies of scale, could not be realised.
121. Paragraphs 168-181 of the Slater Two Report.
122. Paragraphs 182-183 of the Slater Two Report.
123. Paragraph 185 of the Slater Two Report.
124. Paragraphs 211-237, 239-243, 258-262 and 276-277 of the Slater Two Report.
125. Comments of the Cape Town City Council on the Report on the Subject of the Proposed Establishment of a Metropolitan Municipal Authority for the Cape Peninsula.
126. Paragraphs 1-6 of the City Council's Comments.
127. Paragraphs 7-9 of the City Council's Comments.
128. Paragraphs 11-13 of the City Council's Comments.
129. Paragraph 25 of the City Council's Comments.
130. Paragraphs 28-31 of the City Council's Comments.
131. Paragraphs 34-35 of the City Council's Comments.
132. Paragraphs 43-47 of the City Council's Comments.
133. Paragraphs 53-55 of the City Council's Comments.
134. Paragraph 58 of the City Council's Comments.
135. Letter dated 8th April, 1980, from the Town Clerk of Durban.
136. Address by Prof. A.J.G. Oosthuizen delivered on 26 October, 1979, to the Durban Metropolitan Consultative Committee, pp. 1-2.
137. Oosthuizen, op. cit., p.2.
138. Oosthuizen, op. cit., pp. 2-3.
139. Oosthuizen, op. cit., pp. 3-4.
140. Oosthuizen, op. cit., pp. 4-8.
141. Durban Metropolitan Consultative Committee Constitution, clause 5.
142. The Constitution, op. cit., clause 6.
143. Regionalisation of Services, Report from the Secretary dated 19th February, 1980.
144. Annexure B to the Regionalisation of Services report, supra, pp. 74-84.
145. See, for example, The Argus, 18 August, 1981, p. 3.
146. Fred W. Riggs, Administration in Developing Countries : The Theory of Prismatic Society, pp. 23-29.

CHAPTER SEVEN

A NEW CONSTITUTIONAL MODEL

1. Before describing the proposed constitutional model the main points arising from the previous Chapters will be recapitulated, after which other relevant factors will be discussed. The model will be in the form of a draft ordinance which is an annexure to this thesis.

RECAPITULATION

Historical Background

2. The system of local government, as found in South Africa is one of evolutionary but slow development. Local Government in South Africa still largely follows the historical patterns of the Nineteenth Century.¹

Government Systems

3. South Africa is a unitary state with three tiers of government arranged in a hierarchy and this tends to lead to the centralisation of powers, a process exacerbated by existing racial policies. While there may be some variations in form between local governments in the four Provinces, the existing local government systems have certain common characteristics, namely: the institution of a corporate body; government by white councillors elected by white voters; the levying of rates as the sole source of tax revenue; decision-making,

often/....

often of an executive nature, by councillors at committee level as much as at council level; the use of either the single or multiple committee systems; the designation of the town clerk as the chief executive and administrative officer; and specialisation in the organisation of departments.²

Franchise

4. The local government franchise, as described supra, is based principally on eligibility for enrolment on the Parliamentary voters' roll thereby limiting it to whites only. However, in the Cape until 1972, coloureds not only had the municipal franchise but also the right to be councillors. Coloured participation in civic matters is now limited to the management committee system which has been rejected by the majority of the coloured people.³

Greater Cape Town

5. Greater Cape Town consists of a large and racially mixed population of white, black, coloured and indian persons. Although there is much apparent wealth there is also considerable poverty and lack of advantage, particularly among the coloured people. The symptoms of the lack of advantage are reduced earning capacity, reduced access to better job opportunities, unemployment, lower education standards and literacy levels, and a high incidence of crime. The main causes of these problems are overcrowded living conditions caused by an unequal distribution of land in terms of group areas, group areas removals, a high population growth, a lack of security, the abuse of liquor and overcrowded housing. Nevertheless, all race groups in Greater Cape Town are inter-dependent on each other for a safe and prosperous future.⁴

Local Government in Greater Cape Town

6. Greater Cape Town is considered to consist of thirteen local authorities,⁵ which differ greatly in size, population and strength.⁶ The creation of these local authorities did not take place according to

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any prepared plan or scheme and although some smaller local authorities were consolidated with the City of Cape Town in 1913 and 1927, there has been no real attempt since then to deal with municipal development on some rational basis.⁷

Local Autonomy and Accountability

7. Local autonomy, in an absolute or legal sense is not possible within the constitutional framework of the South African State. Accordingly, local government is susceptible to supervision and direction by higher tiers of government, and the real problem is not so much a desire for a complete lack of control as a rejection of petty and irritating controls which leave local authorities with little room to be innovative. Likewise, the idea of local accountability is not only diffused because of controls from higher tiers of government but also made more difficult by those local authorities which use the multiple committee system.⁸

8. The doctrine of ultra vires also leads to excessive controls by higher tiers of government as well as stifling initiative and preventing innovation.⁹

Planning

9. The Government is increasingly becoming involved in the physical planning of Greater Cape Town, but this planning involvement does not, so far, seem to have been aimed at participating in solutions to the problems arising from the lack of material resources, except at Atlantis. Local government, on the other hand, because it is so illogically divided into multiple jurisdictions, is not strong enough to speak authoritatively to the Government on planning issues. The Cape Metropolitan Planning Committee, while it at least allows some measure of co-ordination in physical planning, does not allow of overall and co-ordinated planning related to decision-making and the allocation of resources.¹⁰

Housing

10. One of the most important future functions of local government in Greater Cape Town will be the provision of public housing either in conventional housing schemes or by means of self-help techniques. The population/.....

population forecasts for the area indicate a considerable growth in the coloured population.¹¹

Sources of Income

11. The main source of income for local authorities is the property rate. Because of the large disadvantaged population in the metropolitan area, there are many people who need local government services but cannot afford them, which means that a relatively small number of ratepayers are taxed more than they need to be in order to fill this need. This leads to resentment, not only on the part of the giver but also on the part of the receiver. The "dependence syndrome" is not a healthy development. There have been Government investigations into the income sources of local government and recently the Government announced that it would pay rates on its immovable property.¹²

12. The cost comparisons of local government in Greater Cape Town reveal wide disparities amongst which is the fact that the City of Cape Town is at present providing a range of regional services for the inhabitants of Greater Cape Town but without receiving any compensation from those who live outside its borders.¹³ In other words, the City of Cape Town is acting outside its jurisdiction and it must also be observed that where it so acts, the users outside its borders do not have any say in the nature or standard of those services.

13. Furthermore, coloured areas, on their own, are not sufficiently viable to sustain separate municipal status or effective local government. This is clear from previous Government investigations. The Government's justification for separate local authorities on a racial basis has been that the coloured and white race groups are entirely separate, with separate interests except in the limited sphere of contact in commerce and industry. It is suggested in this study that this view is not tenable and that all race groups in Greater Cape Town share a common destiny in a common future.¹⁴

14. While there is no legal compulsion for one group of ratepayers to subsidise another, less privileged, group of ratepayers, a refusal

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to do so is likely to result in such a severe deterioration in the quality of life in Greater Cape Town, that the consequential escalation in crime and diminishing economic activity will eventually lead to violence. Therefore, putting aside moral, ethical or religious motivations, self-interest forms the basis and the need for the payment of rate subsidies.¹⁵

Metropolitan or Regional Local Government

15. In several countries some form of regional or metropolitan local government has become necessary to deal with area-wide problems.¹⁶ In more than one case a two-tier approach has been adopted,¹⁷ and it is not unusual for central governments to give financial support.¹⁸

16. In South Africa itself, there is a positive move towards metropolitan municipal government in the Durban Metropolitan Area, and, while steps were taken in 1913 and 1927 to unify smaller Cape Peninsula local authorities with the City of Cape Town this was not followed up with the evolution of a rational policy for municipal development. The resultant unchecked growth in the number of smaller local government units since then in fact indicates that the Cape Provincial Council, the appropriate legislative body, does not have a policy on this issue.¹⁹

17. The Slater Two investigation, which recommended the introduction of a two-tier system of local government for Greater Cape Town was never implemented by the Provincial authorities. Although no public statement on this point can be traced it is a reasonable inference that the strong objections lodged by the City of Cape Town must have played a part in whatever decision was taken not to proceed with a system of metropolitan municipal government.²⁰ The City of Cape Town, while it criticised the Slater Two Report for being superficial, was equally superficial in some of its views, for example, that the area was not experiencing any problems, the assumption that metropolitanisation would duplicate staff structures, and that annexation could be considered as a solution.²¹

18. The four main options available once a form of metropolitan action is indicated are: one authority, i.e., annexation by or incorporation into the core city; the two-tier approach; the creation of single purpose authorities to handle special functions such as fire, traffic, housing, etc.; or a voluntary attempt to co-operate between the different local authorities.²²

The Main Problems and the Main Hindrances to their solution:

19. In concluding this recapitulation it is necessary to focus on the perceived main problem, namely, as stated in Chapter Two the political problem of the coloured municipal franchise, and to draw attention to the fact that this problem is rooted in white fears of domination by a socio-economically disadvantaged majority. This majority is exhibiting signs of showing dependence on subsidisation, something which will inhibit the growth and development of the total society of Greater Cape Town and this undoubtedly re-inforces white fears. As whites at present hold the political power it is essential that these fears be allayed, but if the whites desire a peaceful and prosperous future, it is equally essential that the franchise issue be settled in a just and equitable manner. It follows that the solution of the franchise problem will give rise to a number of other problems which are just as serious, which indicates a need for a dynamic, flexible and open local government system on a metropolitan scale, capable of vigorously carrying out its representative functions.²³ Another major problem as seen in Chapter Six is the failure to plan rationally for the structure of local government in Greater Cape Town, and the failure to overcome objections to metropolitanisation.^{23A}

THE ESSENCE OF MUNICIPAL GOVERNMENT

20. Before prescribing a model for metropolitanisation municipal government it is considered necessary to examine the inner nature or meaning of municipal government, apart from the service functions described

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in Chapters Four and Five or the outline of systems and related matters given in Chapter One--see paragraphs 26 to 39 of that Chapter. This study has reached the stage where a deeper probe is required so as to extract the very essence of municipal government. As a starting point reference is made to the Cape Municipal Ordinance, 20 of 1974, which provides in section three that the inhabitants of every municipal area shall be a body corporate with perpetual succession and in section four that each municipality shall be governed and represented by a council. Section eight of the same Ordinance states that the Administrator of the Cape has the power to establish municipal areas by proclamation; and in section twenty-five and the sections that follow it is stated that councillors must be elected.

21. In other words, a municipality consists of all those who inhabit a defined area, and the law takes all these people and confers a corporate status on them but to enable municipal affairs to be managed there has also to be an elected council. The fact that a council has to be elected means that the system provides for indirect local self-government. The fact that local government is constitutionally subordinate to other levels of government does not make it any less a form of government, although the subordination may create special problems. In fact, this constitutional subordination places special duties on higher levels, particularly Parliament, to ensure that local government is peaceful, orderly and effective--see, e.g., paragraph 40 of Chapter One.

22. What has been written above gives rise to the question as to what is meant by the words govern and represent. These two concepts are separately discussed below.

The Function of Governing

23. The Concise Oxford Dictionary, p. 522, defines the verb "to govern" inter alia as "rule with authority, conduct the policy, actions, and affairs of (State)--regulate affairs of corporation, etc.,--exercise function of government--be the predetermining influence--".

Hill/....

Hill describes local government as generally meaning "a system of territorial units with defined boundaries, a legal identity, an institutional structure, powers and duties laid down in general and special statutes and a degree of financial and other autonomy".²⁴

24. Laski states that a case exists for a strong system of local government on the basis that not all problems are central problems and that, to bring about a consciousness of common purposes and common needs, there is a need for decisions to be made at the local level. Local government has a more intimate relationship with its citizens than more centralised forms of government.²⁵

25. Another English writer, Stanyer, states that local government can be described as a miniature political and administrative system and the nature of a local authority will depend on the system of government which surrounds it and of which it is part. Local government is related to area or limited territorial jurisdiction. Primary local government exists wherever the members are directly elected without interference by some other body, and whose jurisdiction embraces a range of disparate services. Because each local authority is a miniature political system it is also a miniature social system.²⁶

26. Humes and Martin, who wrote about comparative local government, describe representative local governments as having the characteristics of governing organs consisting of representatives directly or indirectly elected, a defined area, a population, a continuing organisation, the authority to undertake and the power to carry out public activities, as well as the ability to sue and be sued, to enter into contracts, to collect revenue and to determine a budget. Authority is a more formal static term referring to the legal ability to make decisions, while power is a more informal kinetic term referring to the actual ability to influence the decision-making process.²⁷

27. Cloete, a South African writer, identifies the characteristics of municipal government as: the legal personality of the municipality coupled with the power to carry out certain acts; the election of councillors from which it follows that the council exists as a political entity: the capacity of municipal councils to have a measure of autonomy because they have some discretion in the formulation of policies on, and the rendering of, services.²⁸

28. Although the Rossouw Committee did not formally try to define the functioning of governing, it did identify three factors as being essential to any satisfactory system of local government, viz: adequate revenue and capital sources to finance services; a sufficient supply of candidates to stand as councillors; and a pool of personnel within the community to carry out the functions of a local authority.²⁹ The Botha Committee also stated three requirements but this time for the establishment of a local authority, viz: the will of the community to administer its own affairs separately; the capacity of that community to administer its own affairs; and the financial ability and vigour of that community so as to make local government possible.³⁰ Although both these Committees were supposed to recommend local government systems for coloureds, they did not attempt a thorough analysis of what is meant by government.

29. The Borckenhagen Committee described local government as the government of separate communities, both large and small, bound together by a common interest within the State. Primarily the functions of local government are local rather than national in importance but no certain line could be drawn as the complexity of civilization sometimes made it necessary for a local authority not only to deal with local matters but also to act as a decentralised unit of the State.³¹ The Department of Community Development describes local authorities as one of the three main kinds of legislative bodies in the Republic, and adds that the definitions used in legislation throw little light on the nature of a local authority. However, the characteristics of local authorities are that: they are creatures of statute with localised governing powers; they have taxing powers; they have the duty of protecting public health; they are road-making authorities; and they may render certain services to the public and levy charges for them.³²

30. Finally, it is necessary to refer to some legal views. Dönges and van Winsen, who are still the definitive authors on municipal law, describe the universitas as an aggregate of natural persons forming as a group a new subject of rights and duties, separate and distinct from the rights and duties of the individual persons who constitute the group. This universitas also has the right of perpetual succession. Municipalities in the Cape Province are exclusively the creatures of statute, possessing no rights and powers except as are either expressly or impliedly conferred on them by a competent legislative authority. The council, which has the function of governing, is in the position of agents but not ordinary agents, as they are not appointed by the principal nor do they take instructions from the principal: the councillors are statutory agents, elected by the corporators, to perform a mandate for the corporation, the terms of which are prescribed by law.³³

31. According to judgments given by the Supreme Court of South Africa the very nature of municipal organisation requires the conferment of effective powers for the functioning of local government. The control of public health is a part of local government and councillors, who are the statutory agents of the members of the corporation, should act conscientiously and not use their powers to discriminate unfairly on grounds of colour or class. Furthermore, in order to be classed as a local government, the institution making this claim ought to be endowed with a substantial measure of local self-government within its area. A municipality is not just a corporation akin to a company but a phase of government, albeit local.³⁴

32. What can be distilled from the views given supra? The dictionary definition emphasises ruling with authority and regulating affairs, while the views of Hill and Stanyer emphasise the limitations which exist in respect of territory, powers, autonomy and the rendering of services. Stanyer adds the description of a miniature political and administrative system, while Laski points to a element of common purpose stemming from the need for local decisions to be made locally. Cloete shares the views of Hill and Stanyer. The description given by Humes and Martin fits in with those already given but with two important additions: the authority

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to act, which is formal, and the power to carry out public activities, something which is based more on informal influence than formal authority. The factors identified by the Rossouw and Botha Committees are of little assistance. The Borckenhagen Committee linked common interest to local government, i.e., the desire to have a common interest leads to government. The views of the Department of Community Development, while following for example, Hill, Stanyer and Cloete, also lay stress on the legislative function. Finally, the various legal views confirm that municipal councils are a form of government based on a form of agency: this type of government flows out of performing certain functions because of a measure of local decision-making; the decisions should be taken fairly and justly.

33. Having arrived at this point it is proposed to test the Cape Municipal Ordinance, 20 of 1974, in order to determine in broad outline what municipal councils may do, i.e., their powers and functions. Accordingly, the Ordinance will be analysed below:

33.1 the body corporate for the municipal area has perpetual succession and is capable of suing and being sued, of purchasing, holding and alienating land, of entering into contracts and generally of doing and performing such acts and things as bodies corporate may by law do and perform.³⁵ The meaning of this is that the power to act, to decide and to defend is conferred on each municipality but as the municipality cannot itself perform these acts there must also be a municipal council;

33.2 a municipal council governs and represents the municipality;³⁶

33.3 the members of the council are elected in terms of a prescribed process;³⁷

33.4 the members of the council are obliged to elect office-bearers and may appoint committees: councillors are required to meet together at least once a month for the purpose of taking decisions;³⁸

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33.5 the council must appoint a town clerk and a treasurer and may appoint such other employees as may be necessary and the town clerk must be designated as the chief executive and administrative officer of the municipality;³⁹

33.6 the council must annually adopt estimates of revenue and expenditure, as well as capital expenditure, and annually levy rates on immovable property to meet budgeted expenditure. A council may also raise loans;⁴⁰

33.7 a municipal council has permissive powers to construct streets and public places and to render the services of sewerage, drainage, water, gas and electricity;⁴¹

33.8 a council may bind itself by contract and may make by-laws on a wide variety of matters.⁴²

34. Testing the provisions of the Ordinance against the summary given in paragraph 32 supra, it is clear that a municipal council has the power to govern. Even without additional proof, the provisions of the Ordinance are such that it would be reasonable to infer that a municipal council is a form of government. Territory, limited powers and jurisdiction are not strictly relevant to the question: these factors merely characterise the type of government. What is more important is the capacity to act, i.e., the power to carry out a series of acts. The natural person also has the power to act but, in a functioning democracy, personal power does not bind the whole body politic--the very juristic nature of a municipal council, because its members are elected, accords with the notion of democracy. Accordingly, it is submitted that in the municipal context, government has the following meanings:

34.1 an elected council representing a juristic creation, viz., the municipality:

34.2 the coming together of council members to make decisions as statutory agents of the corporation;

34.3/.....

- 34.3 the capacity of the council to levy a tax, to make laws known as by-laws and to employ staff;
- 34.4 within and subject to the law, to act for and within the local community;
- 34.5 the capacity to make decisions whether to do or to refrain from doing some particular act. This last capacity or power is important and is in fact the essence of government: the discretion to give or to withhold;
- 34.6 the authority to allocate resources and to determine priorities.

The Function of Representation

35. The function of representation must of necessity be less formal than the function of government. The Concise Oxford Dictionary, at p. 1035, inter alia, defines represent as: "fill place of, be substitute or deputy for, be entitled to speak for". This function has internal and external connotations as will be seen. Cloete states that councillors have three functions, namely, to represent their voters, to function corporately at committee meetings, and to send reports and recommendations to council meetings. On the representative function, he states that representation involves ensuring that the will of the electorate is built into the local administration and this involves consultation with the electorate although apathy might make this difficult. The requests made will to some extent depend on the socio-economic circumstances of an area with a general tendency for more requests to come from less privileged areas. Councillors will also often be asked to deal with individual problems.⁴³

36. Hill states that the practical approach is to see local government as providing services for local inhabitants and protecting them against an internal bureaucracy, and the skills needed to-day from councillors are formidable. Councillors need to keep in touch with their wards but they also need bargaining skills and critical judgment. The main justification most councillors see for their work is the help

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it gives to the community and the individuals within it.⁴⁴ Richards states that local authorities exist not only to carry out duties but also to express opinions and this representative function has two forms, the first being to urge other public bodies to carry out policies which will be of local advantage and the second is for one local authority to ask another to do something.⁴⁵

37. Dunsire refers to responsible government in contrast to representative government. He points out the difficulties inherent in ensuring true representation of all interests in society and states that responsible government pre-supposes giving full control of the legislative and administrative machine to a group with the proviso that after the expiry of a period of time a decision could be taken on whether to keep them or to change them for others.⁴⁶ The 1967 Maud Report rejected the view that councillors concerning themselves with the minutiae of administration is evidence of democracy. The Report also stated that democratic local self-government is an essential institution but a growing complacency amongst councillors and officials was a danger which could lead to increasing government interference and to pressure for local functions to be performed by non-representative organs. Local authorities should be seen to be responsible to their electorates for the adequacy of their services and should not only be given a general competence to do whatever they believe is in the interests of the inhabitants of their areas but also existing legislation should be examined with a view to repealing whatever provisions are necessary so as to leave local authorities with the maximum freedom in organising their affairs and carrying out their work.⁴⁷

38. Redford states that the principle of representation includes not only a device for registering consensus or majority wishes but also for obtaining consideration of numerous variations in interests, but democratic representation of the interests of the people may be lost through the ineffectiveness of the instruments of overhead democracy, i.e., too much may be done in administrative institutions without the attention of the overhead leadership.⁴⁸ Spiers also sees representation

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as being essentially connected with politics. He states that an important characteristic of an elected body such as a parliament is that its functions are almost entirely representative with only the most limited managerial functions. The talents required are primarily political and only secondarily managerial; such an elective body is essentially a lay body.⁴⁹

39. Finally, Humes and Martin state that, where there are units of local representative government, the council is the main representative organ. The role of the council as a representative body is a complex one which varies not only with the evolution but also with the mechanics of the processes of local government in each country. Nonetheless the degree to which a council succeeds in its representative function depends, firstly, on the extent to which its membership represents and is answerable to the public, and secondly, the extent to which the council has the authority and power to define local policy objectives and to have these objectives implemented.⁵⁰

40. From what has been written above a representative can be described as a person who stands in the place of another, and in all governments, the other party will in fact be a group. In order to exercise their function of representation, local government councillors act corporately for the purpose of taking decisions, and not as individuals. The purpose of a local council may be to render services but the manner in which those services are rendered, i.e., the basis upon which decisions are made, is of the utmost importance and is related to democratic notions of fairness and justice. This again connotes the idea of responsible government in which the elected members exercise effective political control over the activities of the paid employees. In other words, it is the elected council which should be accountable to the public for the decisions it takes and the process of decision-making is strongly linked with the function of representation. The extent to which representation succeeds depends on the extent to which the elected members can be held accountable by the voters and the degree to which they have the authority and power to define local objectives and to translate them into action.

41. It is submitted that the essence of the function of representation in local government involves the following factors:

- 41.1 an elected body of councillors who meet corporately to take decisions and who should represent the varying interests to be found in their area fairly and justly;
- 41.2 the degree to which a council can be said to be representative can be described as the extent to which the members of the council can be held accountable by the public they serve;
- 41.3 the representative function also involves the adoption of policies related to fairness and justice in respect of the society governed by the council, which indicates that decisions on important matters should always be preceded by a proper investigation and planning;
- 41.4 the effectiveness of the representative function is related to the power and the authority the council has to translate locally perceived objectives into action;
- 41.5 an important part of representation is the carrying upward to higher levels of government those problems and those needs which cannot for any reason be solved or met locally.

Concluding Summary

42. In paragraphs 32-33 supra it was shown that the function of governing involves a council corporately managing the affairs of a juristic creation and performing a number of authoritative acts, e.g., the levying of tax or the allocation of resources. Furthermore, in paragraph 41 supra the essence of representation was shown to be decision-making by an elected council based on fairness and justice, linked with accountability to the public. The concept of representation also envisages the power to meet locally-perceived needs, together with the taking up to higher government levels of those problems and needs which cannot be solved or met locally.

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LOCAL AUTONOMY

43. The powers which are conferred on a municipal council and the extent to which it is permitted to exercise those powers in its own discretion will decide the extent to which that council is locally self-governing, i.e., the issue of local autonomy is concerned with the exercise of power. The concept of local autonomy was discussed in paragraphs 12--18 of Chapter Four, the broad conclusion being that in a unitary state such as South Africa, with a supreme legislative organ, viz., Parliament, there can be no talk of pure autonomy but on the other hand local government is an essential part of the government of the Republic and requires more support and less interference by means of unnecessarily detailed prescriptions of policies by higher tiers of government. In the construction of a constitutional model the action is to a large extent political and it is considered necessary to have a brief review on the issues of the centralisation or the decentralisation of powers.

44. In considering the advantages of centralisation, there are the obvious benefits of economies of scale in the rendering of services on a mass basis, although there must be points at which these economies may be lost, and expenses again rise. In addition, where uniform service standards are laid down it is possible to ensure that all sections of the population receive fair and just treatment, i.e., the idea of equality can be pursued through the imposition of uniform standards. Where control is needed over spending, where necessary investments are costly, where there are unemployment problems, and where planning on a broad scale is needed, all these factors point to the centralisation of decision-making. Similarly, where the planning and funding of regional facilities or services take place centrally, the likelihood is that implementation will also take place centrally.

45. South Africa, as remarked elsewhere in this study, is a developing country and can be described as being a mixture of the First and Third Worlds. In many developing countries overall policy objectives

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tend to be made centrally, which presents a challenge to local organs, which, if they cannot determine their overall policy objectives, tend to become a facade for the exercise of central government direction.⁵¹ To this can be added the view that not only the need to co-ordinate policy, resources and technical services gives rise to centralisation, but also the increasing specialisation of skills and work processes. Where centralisation occurs, it has the effect of a growth in overhead controls over subordinate government units, the creation of larger administrative units, and the strengthening of vertical forms of control and co-ordination.⁵²

46. In the United Kingdom, the Maud Committee came to the conclusion that there was an increasing tendency on the part of the central government to increase its controls, and this trend was founded in part on the financial dependence of local authorities on central government grants. In addition, local government councillors and officials showed a dangerous complacency in accepting this situation, giving rise to the possibility that local democracy would be regarded as of little value.⁵³ Allied to this, Hill makes the point that in England, the central government had been more flexible than local government, devolving power to different regional groupings. This had had the effect of retarding and reducing the need for local government reform.⁵⁴ Cowden points out that, while local government has since 1910 pleaded for a diminution of central and provincial controls, i.e., for less centralisation, these pleas had been ignored and the legislative controls increased. Often the blame lay on the local authorities themselves because of their requests for new laws. Many local authorities depended on the provincial authorities for financial assistance and some senior provincial officials believed that many local authorities were incapable of managing their affairs properly.⁵⁵

47. The above paragraphs lead to a consideration of the advantages of decentralisation. Principal among these must be the democratic satisfaction at local decisions being taken by local communities, and with local elected representatives being held accountable for those decisions. Where local decision-making is changed at higher government levels, those changes are usually made by officials who are likely to be unknown by the

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local community. This must have an effect on local, accountable democracy and may be a factor contributing to civic apathy.⁵⁶ Perhaps another way of stating the problem is that decisions substituted by higher levels of government are no less likely to be more wise or more correct than local decisions, unless those in higher government levels are assumed to be infallible. Hill, writing in regard to British local government makes the telling point that the British central government had become overburdened and lacked co-ordination at the local level, which had led to a debate on regionalism. Whether local government became strong or weak would depend on whether regionalism came from below or above.⁵⁷

48. One way that could be considered to counter-act the call for decentralisation is the creation of additional co-ordinative bodies but this is more likely to complicate than to simplify the administrative machine. The failure, in the United Kingdom, to cope with the mounting problems of large cities, the reduction of civic spirit or community interest, and the lack of meaningful two-way communication, are all arguments in favour of decentralisation.^{57A} The Maud Committee suggested that a new approach to the centralisation/decentralisation problem in the United Kingdom would be for the central government to accept the competence of local government and to confer on it general powers to act, and with financial controls being limited to fiscal necessities so as not to hamper the discretion of local authorities.^{57B}

49. To sum up, there are serious arguments in favour of centralisation and which relate to financial and administrative assistance on the one hand, and uniform standards so as to ensure a general equality on the other hand. In a unitary state such as South Africa or the United Kingdom, a degree of centralisation cannot be escaped, particularly in respect of financial assistance. However, The Netherlands is also a unitary state, and as shown in Chapter Six, although local government there receives almost all of its funds from the central government, detailed control is not severe. The arguments in favour of decentralisation relate to a large extent to notions of local democracy and local accountability. It is difficult to see how a full or perfect form of autonomy can be obtained, particularly in South Africa with its mixed

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population and complex social problems. However, it may be that it is not the fact of central control that is at issue but the nature and degree of that control. Where controls are regulatory, then not only will the disadvantages already stated arise but there is also the strong danger of corruption through manipulation. It is submitted that, in relation to local government, central government control ought to be based on an approach of leadership and assistance, through the setting of broad policy goals, the giving of the required financial, technical and administrative assistance, and good communications.^{57C}

THE LEGISLATIVE POWERS OF PROVINCIAL COUNCILS ON MUNICIPAL GOVERNMENT AND ADMINISTRATION

50. Before prescribing a new constitutional approach it is considered necessary to review the legislative powers of provincial councils as the source of municipal legislation. In terms of section 84 of the Republic of South Africa Constitution Act, 32 of 1961, a provincial council which follows the prescribed procedure may make ordinances:

- 50.1 relating to municipal institutions, divisional councils and other local institutions of a similar nature; and
- 50.2 any ordinance shall have effect in and for the province for as long and as far only as it is not repugnant to any Act of Parliament.

51. The following general principles apply in the construction of provincial legislative powers:

The Principle of Implied Powers

52. The principle of implied powers means that in addition to any express power granted, all other powers which are reasonably necessary to achieve the purpose of the express power are granted by implication.⁵⁸

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In deciding on what power is reasonably necessary for the municipal corporation to function properly regard must be had to the requirements of a municipality in the light of modern conditions. The courts will not declare an ordinance ultra vires on the grounds of it being unreasonable, unwise or harsh in its application. A provincial council has original legislative capacity subject to the terms of Act 32 of 1961.⁵⁹

The Principle of Benevolent Interpretation

53. This principle means that in interpreting the powers of a provincial council the courts ought to be slow in restricting these powers so as to make progressive legislation difficult or impossible: the correct way to interpret the powers of a provincial council is to give them as wide a scope as possible, compatible with the nature and extent of the authority of that council.⁶⁰ Interpretation should be such as to allow the power to initiate and the tendency is towards liberality.⁶¹

The Principle of the True Nature of the Ordinance

54. This principle means that in interpreting an ordinance the courts should look at its true nature rather than its form.⁶²

The Court may not look at the Policy behind an Ordinance

55. Because a provincial council in respect of section 84 of Act 32 of 1961 has, as mentioned supra, original and not delegated jurisdiction its ordinances have the same power within its province as an Act of Parliament and the courts will refuse to examine the policy behind an ordinance with a view to deciding whether or not it was a wise policy and whether or not in the light of this enquiry, the ordinance is valid. Even the introduction of discrimination in an ordinance will not necessarily make it invalid.⁶³

56. To sum up, a provincial council, provided it acts within its powers, and provided further that its ordinances are not repugnant to an Act of Parliament, has full and original legislative jurisdiction

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over the matters assigned to it in section 84 of Act 32 of 1961. The approach of the courts appears to be that progressive innovation and the initiation of changes, will not be a reason for declaring an ordinance invalid: on the contrary the general approach of the courts is to be liberal in the interpretation of implied powers, where innovative legislation is enacted.

LOCAL OPINIONS ON A POSSIBLE METROPOLITAN
MUNICIPALITY

57. Part of the questionnaire survey involved seeking opinions from those canvassed on the structure of a possible form of metropolitan municipal government. The response did not encourage the view that a sufficiently representative sample of public opinion had been obtained upon which alone a new constitutional approach could be based, e.g., the four main political parties, the Cape Provincial Administration, the former Coloured Persons Representative Council and some municipalities declined to reply. Nevertheless the opinion that was obtained is given in Appendix Three.

58. Out of the eleven local authority respondents to the questionnaire survey, eight were of the opinion that some form of structural change was required, and, interpreting the replies given, it seems that they all envisage some form of metropolitanisation on a two-tier basis. A further extrapolation from the local authority replies is that there is a fear of sheer size leading to impersonality coupled with a desire to achieve the economies of scale which flow from metropolitanisation. In other words, a two-tier system can be regarded as meeting, on the one hand, the desire of local communities to identify with their own community government, and the need, on the other hand, to deal with common services and problems which individual local authorities could not handle, by means of an effective area-wide body. Such a body could achieve economies of scale, the mobilisation of mass resources, and provide effective co-ordination. The views of management committees

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are understandable, whilst the response from ratepayer associations was not representative although they did place on record that there is a measure of dissatisfaction with present systems.

THE NEED FOR A METROPOLITAN MUNICIPALITY

59. One of the final steps before embarking on a new constitutional model is to offer the proofs in favour of a change of system, i.e., the constitutional model should not proceed on assumptions and opinion alone. The following factors are regarded as proving the need for a metropolitan municipality:

- 59.1 local government in Greater Cape Town did not evolve according to some pre-thought plan aimed at satisfying the needs of the people living in the area in the most effective manner;⁶⁴
- 59.2 in every meaningful sense of the word Greater Cape Town forms an area where the members of a mixed society are inter-dependent. Local government, however, is so fragmented that it cannot satisfactorily cope with the existing and expected problems of the area;⁶⁵
- 59.3 the political situation relating to the coloured municipal franchise cannot be settled to the satisfaction of all the interests involved unless local government is also reformed;⁶⁶
- 59.4 the area faces severe technical, socio-economic and financial problems which cannot effectively be solved unless resources are massed so as to optimise the efforts still to be made and to satisfy all the needs of all the members of the client population;⁶⁷
- 59.5 experience in other places shows that solutions to regional problems have to be sought in terms of regional action. It would be a grievous mistake to allow local government to pass into strong central government control;⁶⁸

59.6/...

- 59.6 democratic local government ensures a healthy approach to democracy at other levels of government;⁶⁹
- 59.7 local government needs to be dynamic and freed from the shackles of tradition if it is to adopt bold new initiatives to meet current problems. It is thus important that local government changes to meet changing circumstances if it is to play a meaningful role in the development of the area.⁷⁰

CURRENT THINKING IN LOCAL GOVERNMENT

60. The views which follow were mainly made by various provincial municipal associations and local authorities to the President's Council in response to the Government's 1979 constitutional proposals,⁷¹ which made no provision for local government. The United Municipal Executive of South Africa submitted its proposals for a new constitutional deal for local government in South Africa. In essence the United Municipal Executive made the following proposals regarding local government:

- 60.1 the new constitutional pattern ought to be decentralised with the objectives of peace, freedom and individual welfare for each minority population group without the one dominating the other;
- 60.2 to meet these objectives proposals were made in respect of central and local authorities, including regional units and primary municipal units as outlined infra;
- 60.3 to get away from old historical areas of jurisdiction the Republic should be re-divided into new regional and local geographic units on a scientific basis in order to ensure optimum administrative effectiveness. The 38 geographic units adopted by the Government for the purposes of physical planning should be the area basis for the proposed new regional units;
- 60.4 provincial functions should be confined to rendering those economic and social welfare functions which can be done more effectively at provincial rather than at regional level and the functions

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of the four Departments of Local Government should be redirected towards giving leadership and assistance to those smaller municipal authorities which need them and thus cannot be regarded as autonomous;

- 60.5 the present Local government structure should be replaced by a two-tier system consisting of an upper regional level and a lower primary local level, with both to enjoy the maximum possible autonomy. The primary or second-level local authorities should be for the different race groups, i.e., separate municipalities divided on a racial basis, with the councillors elected on a democratic basis. The upper level should be either an urban regional council or a rural regional council. The members of the urban regional council should be nominated by the constituent municipalities;
- 60.6 the representation on the urban regional council should be on a proportional basis in accordance with financial contributions;
- 60.7 the functions of urban regional councils should be to render those infrastructural services which necessarily need to be rendered at a regional level;
- 60.8 the functions and powers of the autonomous local authorities should be stipulated in the national constitution and prescriptive administrative control by central and provincial government departments should be entirely abolished as it leads to the centralisation of administrative power, thereby causing frustration and removing local autonomy and local democracy;
- 60.9 during the transitional stage the white local authorities should do their utmost to train and develop coloured and indian areas so as to lead to responsible local government and, to ensure local autonomy, it is essential that there be a decent and reasonable division of revenue sources and income.⁷²

61. The appointment of the President's Council and the expectations raised thereby led to further changes in the views of organised municipal government. The memorandum from the United Municipal Executive ostensibly represented the views of all local authorities in South Africa. However, the President's Council on 10th July, 1981, published a notice in the Government Gazette requesting the public to advise it on the development of local and regional management systems with due regard to geographic, financial and representational aspects.⁷³ Interested persons and bodies wishing to submit written representations were requested to do so. The Council's Committee for Economic Affairs had accepted as a general objective that vigorous local authorities should be established and developed, the better to serve the socio-economic development of the country. Accordingly the arrangements made and measures taken should not be in conflict with the accepted objectives of the country's economic policy, while on the other hand a number of guidelines had been developed.

62. The guidelines set by the President's Council were to the effect that local authorities should only be established if they are viable or could become viable within a reasonable period and the special socio-economic circumstances and needs of each population group should be taken into account as far as possible. In this regard, the principle of equitable treatment should be pursued both in respect of population groups and classes of local authorities. Furthermore the basic requirement of the democratic principle should be observed, with as much recognition as possible being accorded to local autonomy and to local initiative and local ingenuity to serve the best interests of the local community. As far as resources were concerned, it was stated that sound financial principles should be observed and sound economic principles should be applied, i.e., each area should be developed to enhance its economy and the provision of services should promote the best allocation of economic resources. The current and expected economic conditions in the Republic should be borne in mind.⁷⁴

63. If any criticism can be levelled at these guidelines, which show a welcome trend to innovate, it is in respect of the use of the term local and regional management systems which could give rise to the

impression/.....

impression that local government in the full and accepted sense is not intended. Although the guidelines do refer to local government, a management system is not necessarily democratic and in fact, could give rise to an impression of authoritarianism. The emphasis on race is likely to evoke resistance from coloured and indian persons and the requirement for viability leaves most coloured and indian areas in an uncertain position given the known lack of viability in those areas, with the consequential danger of the retention of some modified system of management committees.

64. The four Provincial Municipal Associations have all submitted memoranda on the question, and summaries of their views are given below:

65. The Orange Free State Municipal Association aligned itself with the memorandum from the United Municipal Executive. The political rights of coloureds and indians had never been an issue in Free State local government but there was no objection in principle to members of these race groups serving on local authorities, with whites. Further consideration could be given to some form of consultation between neighbouring white and black towns on matters of mutual interest. Provincial Departments of Local Government should be retained to avoid greater centralisation of administrative power and consideration should be given to the institution of a second or upper level of local government in order to permit the necessary reforms to be made.⁷⁵

66. The Municipal Association of Transvaal advised the United Municipal Executive that it stood by the latter's memorandum and that this should be the sole representation of the views of organised local government.⁷⁶

67. The Cape Province Municipal Association stated that separate residential areas should remain but admitted the right of those who contribute to municipal income to have a say in municipal government. The Association therefore proposed that the management committee system be abolished, that all local authority areas be divided into wards with due

regard/.....

regard to all wards having equal ratable valuations and that all owners of immovable property and one occupier, to be designated by the owner, the representative of a fictitious person and the lessee of every residential unit, all be given the municipal franchise. The establishment of regional councils was strongly opposed on the grounds of being uneconomic, impractical, resulting in duplication and aggravating the shortage of personnel.⁷⁷

68. The Natal Municipal Association approved of the idea of joint services committees as recommended by the Browne Committee, with the core local authority playing a leading role. In other respects this Association supported the views set out in the memorandum from the United Municipal Executive.⁷⁸

69. Three individual local authorities submitted views to the President's Council. The representatives of the Cape Town City Council called for the abolition of the management committee system and expressed its opposition to racially divided municipalities. This Council also stated that it was implacably opposed to the fragmentation of its area. The Cape Town City Council proposed that the municipal franchise be opened to all people who directly or indirectly contributed to the municipal treasury and also expressed concern at the inroads being made into local autonomy.⁷⁹ The management committees of the Johannesburg and Pretoria City Councils both expressed support for racially-separated municipalities and both opposed the idea of local options for municipalities such as Cape Town, because in their view, if this were permitted for coloureds and indians in Cape Town, persons in these race groups living elsewhere would feel wronged, thereby threatening race relations and peace in other areas. Furthermore, coloureds and indians in Johannesburg would only be able to elect a total of twelve councillors, which would leave them in a subordinate position. Coloured and indian people should be persuaded that separate municipalities constituted the most equitable dispensation, would cause the least friction and would be in the best interests of the coloureds and indians themselves because it was in the national interest. A strong attack was also made on the lack of autonomy of large urban centres, and it was stated that final decisions on important matters were taken by junior officials at the provincial level.⁸⁰

70. Current thinking in local government can only be described as confused but essentially centering on two opposing political points of view, viz., a liberal approach with the aim of opening municipal government as far as possible, and a conservative approach which frankly opts for stringently applied separate development at all levels of society. While there are some weaknesses and a lack of realism in the Cape Town approach--see comment infra--the Johannesburg/Pretoria approach ignores the aspirations of the coloured and indian people, and their need for development in their areas. The management committees of these two Councils appear to show little real understanding of the tenets of democracy or the imperatives of political reform. The United Municipal Executive plan is frankly orientated towards separate development in its basic aims but it also contains elements which can be described as positive, such as the rationalisation of the structure of local government, including a two-tier system for metropolitan areas, and greater local autonomy through a process of decentralisation.

71. The Orange Free State, the Transvaal and Natal align themselves with the United Municipal Executive plan while the Cape Province has opted for a common franchise linked with separate residential group areas. In view of the current situation, i.e., general white resistance to any loosening of separate development, this is probably the most practical step that can be taken in the short term. It must also be borne in mind that a common municipal franchise is not such a radical step for the Cape as for the other Provinces since such a franchise had existed in the Cape up to 1972.

72. The President's Council Notice referred to above reflects the Government's dilemma. Whatever the Government's motives, any move towards the solution of the country's race problems ought to be welcomed but it must be expected that any reversal of the policies followed since 1948 will be a slow and agonising process. It is also possible to discern increasingly strong white conservative resistance to any form of change and the Government's credibility is linked to the nature of the changes

which/...

which may come, and their timing. It would be tragic for the country if no change occurred and there is a distinct danger of this if there is too much delay in making a positive commitment. The constitutional model which follows is an attempt at a radical new view of municipal law with the following objectives:

- 72.1 to bring about meaningful change in respect of political rights at the municipal level;
- 72.2 to ensure the orderly development of stable municipal government both to allay the fears of whites and to meet the aspirations of the coloured and indian people;
- 72.3 to ensure the effective municipal government and administration of Greater Cape Town;
- 72.4 to ensure the maximum possible local autonomy as a means of strengthening both local democracy and local accountability; and
- 72.5 to use the available resources in the public interest.

A NEW CONSTITUTIONAL MODEL

73. The proposed new constitutional model is presented in the form of a draft ordinance prepared by the author of this study and is marked as Appendix Four. It is submitted that the draft ordinance is in parts a departure from current legislative models and represents an attempt at more progressive municipal legislation. Comment will be offered on parts of the draft ordinance but there are sections of a normal business nature which do not require comment as they speak for themselves. The comment that follows will follow the scheme of the draft ordinance.

The creation of the Metropolitan Council and allied matters

74. In paragraph four of Chapter One the municipal areas of Cape Town, Bellville, Brackenfell, Durbanville, Fish Hoek, Goodwood,

Kraaifontein/...

Kraaifontein, Kuils River, Milnerton, Parow, Pinelands, Simon's Town and the Divisional Council of the Cape were identified as constituting the metropolitan area of Greater Cape Town. As a result, section 2 of the draft ordinance incorporates these areas and their inhabitants into a metropolitan municipality which is given corporate status in terms of section 3. A consequential adjustment is also required to the boundaries of the Stellenbosch Division, both to incorporate the towns of Brackenfell, Kraaifontein and Kuils River and to provide land for the metropolis to expand.

75. It is not unusual, when metropolitanisation is resorted to, to adjust the second-tier units in terms of size and population,⁸¹ and section 5 accordingly provides for a commission to investigate these matters as well as the subdivision of the municipalities into new wards to fit the changed circumstances. The re-shaping of existing municipalities as provided for in section 5(1)(a), is a matter of public concern in which the public and not just "experts" ought to be involved. It will also be recalled that when the stage has been reached at which a metropolitan solution must be sought, there are various options available such as a two-tier system, special authorities or voluntary co-operation, and, within the two-tier system there is also the possibility of the core city becoming the service body.⁸² It is mentioned for the sake of completeness that the Durban City Council has inter alia recommended to the President's Council the creation of a Greater Durban Metropolitan Council, in which, as no structural changes are proposed, Durban will be the core city.⁸³ The City of Cape Town has rejected the creation of a metropolitan municipality on the grounds that it would be bureaucratic, costly and would duplicate services, possibly because of a reaction against the idea of racially separate municipalities.⁸⁴ If it adheres to this policy it will exclude itself from participation in the metropolitanisation process with the possibility of its area being divided into smaller municipal units.

The Abolition and Adjustment of Divisions

76. Section 7 of the draft ordinance provides a necessary adjustment to the boundaries of the Division of Stellenbosch. Because Brackenfell,

Kraaifontein/.....

Kraaifontein and Kuils River are considered to be part of Greater Cape Town with little or no identity with Stellenbosch it is necessary to remove them from the Stellenbosch Division, together with additional land from the Stellenbosch Division to provide room for the metropolis to expand. Furthermore, in view of the nature of the proposed new local government system, it would be incongruous to have a divisional council with jurisdiction overlapping that of the Metro Council.

77. Section 6 of the draft ordinance abolishes the Divisional Council of the Cape. There are two reasons for this, viz:

77.1 there is no justification for a three-fold local government jurisdiction in the area; and

77.2 the Divisional Council of the Cape, while it gives the appearance of being regional is prevented by law from operating as a regional authority,⁸⁵ and even if the law were to be amended, the introduction of a metropolitan system would probably meet with a lot of emotional resistance in that one authority would be regarded as "taking-over" from the others. An entirely new body will assist in removing this emotional sort of reaction, particularly as there will also be the commission established in terms of section 5 to which claims can be made.

Functions and Powers

78. It is in sections 9--16 that a radical departure occurs from current norms of municipal law. First of all, metropolitan councillors are nominated from municipal councils according to the rate income which their own councils contribute to the metropolitan council.⁸⁶ The amount of R250 000 will enable all the present municipalities which contribute to the Divisional Council rate, and practically all local areas to obtain representation. This means that the system is completely flexible and that the number of councillors will vary according to the economic strengths and weaknesses of their municipal councils. It is submitted that leaving the number of councillors undetermined accords more with democratic ideals than for some legislature to fix the number of councillors

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as, in the current political climate, this would be bound to engender suspicion about manipulation, but the system also has the advantage of being as responsible as it is possible to make it. Smaller councils, through the mechanisms provided in the draft Ordinance, will also obtain at least one representative on the Metro Council.

79. The municipal councils in the region will function under the general control and supervision of the metropolitan council, i.e., the second-tier councils will not be fully autonomous.⁸⁷ This approach is considered justifiable, firstly, because it is necessary to avoid overlapping jurisdictions, and secondly, because the metropolitan councillors will also be municipal councillors, the control will not be undemocratic and will always be accountable. The functions of the metropolitan council are clearly stated,⁸⁸ whereas it has been the legislative norm in the past merely to state the services that may be carried out.⁸⁹ The functions stated are aimed at local government which is just, responsive, effective and accountable. The requirement of justice for all interests and all persons should ensure political sensitivity and protection of minority interests.

80. The services which may be rendered are stated in such away that the metropolitan council has the maximum autonomy and will not need to rely on legislation from other levels of government to render a service, i.e., the metropolitan council is to a large extent freed from the shackles of the doctrine of ultra vires.⁹⁰ Whether such a release from central control will be achieved cannot be stated as a certainty but there is reason to hope that there is positive thinking in Government circles along these lines, e.g., the Prime Minister's statements that the Government placed a high premium on devolution of power to local authorities,⁹¹ and the hints by the Minister of Internal Affairs that the provincial system may be abolished and replaced with a system of regional government.⁹² The provision in section 15 for the settlement of disputes is similarly aimed at decentralisation by submitting such disputes to arbitration. Section 16 is specifically aimed at eliminating and loosening the doctrine of ultra vires by conferring a general competence to act.

Franchise/.....

Franchise, Voters' Roll and Elections.

81. The selection of norms for a franchise is a delicate matter; the ideal solution would be a universal franchise based on citizenship for all adults but in the current circumstances in South Africa this is unlikely to be accepted. On the other hand, the proposals by the United Municipal Executive and other municipal associations,⁹³ are unlikely to result in a satisfactory solution thereby making inevitable the conflict and friction sketched out in paragraph 33 of Chapter Two. In other words, the choice of norms for a franchise is narrowed down to those standards which will be non-racial in their operation but will nevertheless allay any fears of the whites and lead to responsible local government. The recommended system bears a strong resemblance to the system followed in Ordinance 10 of 1912.

82. In this regard some reference needs to be made to historical precedent. In 1836 the qualifications to be a voter were the possession of the status of a householder who paid taxes in the amount of six shillings per annum.⁹⁴ By 1882 the qualification to be a municipal voter had changed to the ownership or occupation of ratable immovable property, with the voter having up to three votes depending on the ratable value of the property,⁹⁵ and in 1893, in Cape Town, the qualifications for the right to vote were full age and the ownership or occupation of immovable property on the same basis as in the 1882 legislation. In 1912 the system of multiple votes was retained, and the qualification for the municipal franchise was the ownership or occupation of immovable property and residence in the municipal area. The owner of immovable property could acquire up to three votes depending on the value of the property he owned.⁹⁶

83. It was only when Ordinance 19 of 1951 was amended in 1971 that the qualification of registration on the Parliamentary voters' roll was introduced. There is therefore considerable force behind the view that in the Cape Province the evolution of local government has gone together with franchise qualifications related to the ownership or occupation of property. The City of Cape Town has decided on a policy of admitting to the municipal franchise any person who owns and occupies immovable property, i.e., even the tenants of its subsidised housing schemes, and in

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its policy statement it adds that public consultation was not necessary as the principles upon which the statement is based, are quite clear--this last statement, apart from its obvious departure from democratic procedures of consultation, may or may not be true, but as pointed out supra such a policy is more likely to lead to a halt in progress than in positive benefits. The ineluctable conclusion is that the Cape Town statement is simply a political statement.

84. At present the delimitation of municipal areas into wards is in the hands of the Administrator but section 19 of the draft ordinance puts it into local hands and permits a far greater degree of public participation than at present. The purpose of the declaration by candidate councillors in section 20 of the draft ordinance is to ensure honest, clean and open local government. A councillor who signs such a declaration will find it difficult to plead ignorance should he be charged with corruption or any other dishonest act.

Offices and Office Bearers

85. The traditional offices of mayor and deputy mayor have been retained in order to promote acceptance of the new system, and as it is the author's view that South Africans tend to be conservative over political innovation, the retention of certain traditional forms might assist in overcoming this resistance. At the same time, in order to reinforce political lines of authority, these offices are not permitted any executive powers save for the reserve power of convening public and special council meetings.⁹⁸

Systems

86. The Maud Committee, the Marais Commission and the Slater One Committee all criticised the multiple committee system for its wastefulness, its fragmentation of the municipal service, its secretiveness, the lack of co-ordination and its inordinate delays,⁹⁹ but the system is so deeply rooted in the municipal system of the Cape that its total eradication is not considered possible hence the provisions in section 28 of the draft Ordinance. Accordingly, the proposals made in sections 29

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and 30 of the draft Ordinance aim at modifying or removing the main evils of the multiple committee system.

87. The powers, duties and functions of the executive committee follow the general pattern for such committees,¹⁰⁰ but with the addition of the following new powers which are considered to be necessary for effective administration:-

- 87.1 the taking of decisions on all matters on which a decision by the Metro Council is not required so as to ensure that accountability can be fixed;¹⁰¹
- 87.2 the preparation and review of capital expenditure programmes to ensure that some forward planning is done together with the selection of priorities.¹⁰² This is intended to create pre-active instead of reactive administration;
- 87.3 the preparation, initiation and review of policies;¹⁰³
- 87.4 the addition of a duty to consider any matter which affects the municipal government and administration of the region.¹⁰⁴ This too is aimed at centering accountability;
- 87.5 the general supervision of the administration of personnel rather than the making of specific appointments.¹⁰⁵

88. Certain powers are reserved to the council,¹⁰⁶ and this is considered necessary if the council is to play a meaningful role in policy formulation. Section 33 of the draft ordinance also provides for the dismissal of one or more or the whole of the executive committee by a vote of no-confidence. This is considered necessary because the executive committee is intended to operate on a basis akin to that of a cabinet.¹⁰⁷

Decisions and Planning

89. The mechanics of decision-making are to be found in sections 34 and 35 of the draft ordinance and require no comment. Of more interest are/.....

are the provisions of sections 36, 37 and 38 which may be summarised as follows:

- 89.1 the annual formulation of goals and objectives in which process the public may participate;¹⁰⁸
- 89.2 the taking of positive steps to promote the economic and social development of the region;¹⁰⁹
- 89.3 flowing from paragraph 89.2 supra, the preparation of a structural plan not only for the region but also for its hinterland, the preparation of a management plan for the provision and operation of services and finally, a financial and resources plan;¹¹⁰
- 89.4 the transmission of policy decisions to the editors of newspapers in order to ensure the public scrutiny of decisions.¹¹¹

90. The reasons for these provisions centre around the need for complete and total openness in local government together with a more structural and expert approach to problem solving. It is not possible to give examples of matters withheld from the public on the basis of their having been treated as confidential because of the risk of prosecution¹¹² but in the author's view far too many items are unnecessarily treated as confidential because comment by the press or the public is considered to be inconvenient. Accordingly, the formulation of goals and objectives on an open basis is considered to be essential, and, being linked with the duty to promote regional economic and social development, the voter is given a yardstick against which to measure the goals and objectives. The preparation of management and financial plans is considered essential to the whole approach of the draft ordinance which can be summed up as purposeful and pre-active activity. The preparation of a structural, i.e., physical, plan for the region is obvious for similar reasons but the inclusion of the hinterland is deliberate. Both Richards and Cox make the point that the urban centre is dependent on its hinterland and vice versa and in short, town and country are dependent on each other and planning must take account of this.¹¹³

Confidentiality/....

Confidentiality

91. The reasons for the restrictions on making matters confidential are given in paragraph 90 supra. Certain security matters have been added as, in the present climate, security measures are becoming necessary and details of these activities should obviously be kept confidential.

Standing Orders, Rules and Delegations

92. Section 45 provides for delegations from the council to the executive committee and from the executive committee to the Town Clerk and heads of departments. As far as delegations to officials are concerned these are not in the free gift of the executive committee to be given or withheld according to whim. Delegations must be such as to enable the senior officials to carry out their powers, duties and functions effectively. The delegation of powers to committees does have one constraint, viz., the appointment of a committee and the delegation of powers to it is a matter in which the public may participate--see section 30 of Appendix Four.

93. The need for rules of order and administrative and financial standing orders stems from the need for orderly administration and these are provided for in section 46 in a manner somewhat different to the existing legislation¹¹⁴ but one of the continuing problems of the public is that they seldom have the opportunity of acquainting themselves with the terms and conditions of these rules, which set out the scope of an official's authority. On the other hand, it may be of vital importance to a businessman or an ordinary citizen to know the extent of the authority of the official he is dealing with and for this reason section 47 provides for these various rules to be published, to be kept available for public inspection, and to be supplied on demand, as well as to be made available to the press.

Offences by Councillors and Employees

94. It is unfortunate but also true that not everyone who enters local government, whether as a councillor or as an official, is honest,

motivated/.....

motivated towards seeking the public interest and possessed of integrity. The records of the courts of South Africa can testify to this unfortunate truth.¹¹⁵ Section 48 of the draft ordinance therefore prohibits not just bribery or corruption but also misuse of office and the misuse of information gained by virtue of that office. The Maud Committee in the United Kingdom placed a strong emphasis on the importance of the integrity of council members and warned that the danger was not so much corruption in connection with contracts as with planning and development matters.¹¹⁶ Linked with this is the need to prohibit the giving of orders by councillors to individual members of the staff or the demanding of favours not available to the general public--see section 49 of the draft ordinance.

95. To support the need for this type of provision, it is recorded that the Marais Commission found the attitude of some councillors to officials to be "astounding" with councillors entertaining pretensions to disposition over staff and demanding information and favours often for their own personal advantage, and in the process causing incalculable damage to discipline and morale.¹¹⁷ The Maud Committee described interference by councillors in the work of officials as the misuse of personnel, one of a council's principal resources.¹¹⁸ Sections 52 and 53 of the draft ordinance link with section 48 in placing on councillors a general duty to declare any interest which may lead to a conflict of interests, and to declare shareholdings and directorships, the details of which shall be open to public scrutiny. Section 51 continues the existing prohibition of a councillor acting against his council in any one of a number of capacities.

Public Consultation

96. Public participation is generally stated to be desirable and in the interests of good government,¹¹⁹ but seldom is any attempt made to prescribe the extent to which this should take place. As established in paragraph 42 supra, the function of governing and representing in a system of indirect local self-government is concerned to a large extent with authoritative acts, notions of justice and fairness, responsiveness and the exercise of power. Given that this view is correct there cannot also be a second set of decision-makers who are ill-defined and who take no

responsibility/.....

responsibility for their decisions--the notion of other persons performing the functions of an indirectly elected self-governing body tends to negative the democratic ideal behind the concept of elections.¹²⁰ It is submitted therefore that what is meant by public participation is public consultation and this may be described as occurring where the system of government is so open, and where the governors make such positive attempts to ascertain the views of their subjects, that the views of those subjects can readily be ascertained by those governors and hence influence their decision-making.

97. Accordingly, section 54 of the draft ordinance places a general duty on the Metro Council to be as open as possible and section 55 introduces certain devices. These devices consist of an information service, meetings between Metro and municipal councillors as well as with ratepayer associations, surveys and public meetings.¹²¹ It is the ombudsman provided for in section 55(b) who is a complete departure from existing municipal practice. An ombudsman is essentially concerned with investigating and reporting injustices and, sometimes, in trying to negotiate a settlement.¹²² Hill states that the main potential of the ombudsman is to function as an additional channel of consultation, complaint and information,¹²³ while Richards states that it is vital for democracy that the claims and grievances of citizens be dealt with equitably.¹²⁴ Cox describes the extension of the ombudsman system to local government as logical, and, while councillors may refer complaints for investigation, the effective defence of citizens against bureaucratic blunders has a higher value.¹²⁵ The Maud Committee was not prepared to recommend in favour of an ombudsman as it saw such an appointment as blurring the lines between a council and its public; because local authorities were already subject to a large variety of detailed formal controls; and because there was a relatively small field in which the executive discretion of local authorities was not subject to external review.¹²⁶ These latter views display an ignorance of the nature of an ombudsman's functions since the controls and review referred to are not as a rule aimed at rectifying an injustice or mistake affecting an individual.

Financial/.....

Financial Matters

98. The principal features of sections 56 to 58 of the draft ordinance are the sources of income and the exclusion of the jurisdiction of the Administrator in regard to financial matters in order to reinforce local accountability, as well as to establish the supervisory role of the Metro Council in respect of financial matters. It will be recalled that the Browne Committee rejected subsidies to or other sources of revenue for local government¹²⁷ but that the Minister of Finance revised this recommendation,¹²⁸ and it is submitted that this decision is linked with Government perceptions of the political problems it faces and its desire to solve those problems by granting as much autonomy as possible to local government.¹²⁹ Section 56(b) and (c) provide for the payment of unconditional subsidies to the Metro Council by the Province of the Cape of Good Hope and these payments can be justified on the basis that a great deal of tax revenue must be generated in the metropolitan area and, if political problems are to be solved for the Government at local level, the necessary financial support ought to be forthcoming. It will also have been noticed from Chapter Six that it is by no means unknown in other countries for the central government to give financial support to local authorities.¹³⁰ It is considered essential that these grants or subsidies be paid on an unconditional basis if the principle of the decentralisation of powers is to have any real meaning.

99. The collection of all revenue will be undertaken on behalf of the municipal councils by the Metro Council--see section 13(g)--and in terms of section 58 the Metro Council is substituted for the Administrator in respect of general financial control over the municipal councils. Because of the particular nature of a two-tier system; because of the particular problems in the region; and because of the objective of decentralisation, it is considered necessary to create this kind of interface. It is not considered to be undemocratic because it is a part of the local government of the one area. Furthermore, the concentration of the financial function in one organisation will undoubtedly result in cost savings.

Personnel/.....

Personnel

100. This part of the draft ordinance will be discussed in Chapter Eight, which follows this Chapter, and which deals with the organisational model.

Actions by Ratepayers

101. A point of view frequently voiced by provincial officials in discussions with local government officials is that the former exercise some kind of upper guardianship in the interests of the ordinary citizen and that accordingly it is necessary for extensive supervisory and decision-making powers to vest in the Administrator. This view is disputed, mainly on the grounds of the need to promote local democracy and with it, local accountability. The fact remains that the Metro Council may for a variety of reasons take decisions which may be unfair or unwise or even dishonest, or it may fail to act when action is required of it. For all these reasons, it is considered necessary to make provision in section 73 for a ratepayer to apply to the Supreme Court either for an interdict to restrain the Council from acting where the proposed action is either ultra vires or against the public interest, or to compel the Council to act where it has the duty to act and fails to do so.

102. The exercise by a ratepayer of these powers excludes the need for detailed legislative rules and the drafting of section 73 has purposely been left as open as possible to allow the courts to interpret what is ultra vires or against the public interest or the occasions where the Council has a duty to act. The idea of actions of this nature is not novel and as Dönges and Van Winsen point out, the courts of South Africa have not hesitated to entertain actions by an individual ratepayer to restrain the misapplication of funds or to prevent an illegal act. The creation of a universitas or corporation comprising the inhabitants of an area is considered to confer locus standi not only for an interdict but also for a mandamus, which is an order compelling a council to perform a clear legal duty or obligation, unless the council has a discretion. Where a discretion is involved the ratepayer also

has/.....

has to prove that the council acted wholly unreasonably or was actuated by some improper motive.¹³¹ Section 74 makes it clear that the remedies of section 73 do not exclude any other remedies available to a ratepayer, e.g., an action for damages or the launching of an election petition in terms of the Electoral Act, 45 of 1979.

Application of the Principal Ordinance

103. There are a large number of powers, duties and functions in the Principal Ordinance, which is the Municipal Ordinance, 20 of 1974, which the Metro Council will need to have applied to it and as it is unnecessary to repeat all these powers, duties and functions, they have been applied to the Metro Council but not unconditionally. Firstly, the power of the Administrator to approve or reject policy or administrative decisions has been transferred to the Metro Council, and secondly, in respect of the municipal councils, the Metro Council takes the place of the Administrator. The philosophy behind this approach is explained, inter alia, in paragraph 99 supra. Thirdly, section 75(c) is inserted to avoid the ultra vires doctrine being used to stifle initiative, and fourthly, section 75(d) limits the application of future amendments to the Principal Ordinance without the consent of the Metro Council. The reason for this is that, once the Principal Ordinance or parts of it, are applied to the metropolitan area, so will any future amendments to it and these future amendments may well be used to frustrate the intent of the special ordinance. The value of section 75(d) is admittedly not strong because even if the Cape Provincial Council were to bind itself not to apply future amendments, without the consent of the Metro Council, it could remove this stumbling block by repealing section 75(d) at any time.

104. Section 76 empowers the Metro Council to apply for special amending legislation, and where the Administrator refuses to act on such a request, he must table the request and his reasons for his refusal before the Provincial Council, i.e., this takes such a request out of obscurity and makes it possible for political action to be taken where local wishes are refused.

Review

105. The provision of a review procedure is considered essential in order to prevent stagnation and to hasten necessary change. Between 1893 and 1974, there were only four occasions on which a general review of municipal law took place in the Cape Province and that is considered to be insufficient to meet rapidly changing social and other circumstances. Accordingly, from and after the period 1987 to 1989, periodical reviews will take place every five to ten years in order to assess past performance and to promote healthy change. The reason for leaving the actual timing of review periods flexible is because it is impossible in the present to anticipate all the circumstances of the future.

CONCLUSION

106. The recapitulation in paragraphs 2 to 18 supra revealed a region in which wealth and poverty reside as neighbours, where there are splits in the community based on the possession or lack of civic rights and related to ethnicity, and where it can be said there is white fear at the prospect of admitting coloured and indian fellow-citizens to civic rights. There are many other problems shown in these paragraphs and in earlier Chapters of this study, and one of the problems encountered was that, while local government in theory is expected to govern and to be responsive and effective--see paragraphs 34 and 41 supra--the reality is that detailed control by higher tiers of government make these qualities difficult to achieve.

107. Accordingly the opinion was reached in paragraph 59 supra that the optimum solution to these problems would be to embark on a metropolitan solution. The parameters for the proposed legislation suggested in paragraph 72 supra turn around meaningful change, stable and effective municipal government, and the maximum possible local autonomy. It is submitted that the prescriptions of the draft ordinance fall within these parameters and that, although the draft ordinance represents a radical change in the current norms of municipal law, it will nonetheless ensure a peaceful transition to the sharing of civic rights. Finally, the degree to which municipal government and

administration/.....

administration in the region will be responsive and effective will depend on the people themselves.

NOTES

1. See, e.g., paragraphs 8-24 of Chapter One.
2. See, e.g., paragraphs 32-35 and 39-40 of Chapter One.
3. This is a summary of the main points in Chapter Two.
4. This is a summary of the main points in Chapter Three.
5. See paragraphs 4-7 of Chapter One.
6. See paragraphs 2 and 17-26 of Chapter Three and paragraphs 31-39 of Chapter Four.
7. See paragraphs 21-24 of Chapter One, and paragraphs 101-102 of Chapter Six.
8. See paragraphs 12-29 of Chapter Four.
9. See paragraph 9 of Chapter Four.
10. See paragraph 48 of Chapter Four.
11. See paragraphs 2-9 of Chapter Five read with paragraphs 11-14 of Chapter Three.
12. See paragraphs 10-30 of Chapter Five.
13. See paragraphs 31-35 of Chapter Five.
14. See paragraphs 36-41 of Chapter Five read with paragraphs 4.1.2, 4.1.3, 4.2.7, 5 and 6 of Chapter Two.
15. See paragraphs 42-45 of Chapter Five.
16. See the summary in Chapter Six, paragraph 88.
17. See paragraph 88 of Chapter Six.
18. See paragraph 95 of Chapter Six.
19. See paragraphs 115-126 and 96 of Chapter Six.
20. See paragraphs 101-110 of Chapter Six.
21. See paragraph 111-114 of Chapter Six.
22. See paragraph 121 of Chapter Six.
23. See, e.g., paragraphs 4.1.2 and 34-35 of Chapter Two and paragraphs 46.15, 46.25 and 46.26 of Chapter Five, read with paragraph 55 of Chapter Three.
- 23A. See paragraphs 96 and 101-114 of Chapter Six.
24. Dilys M. Hill, Democratic Theory and Local Government, p. 23.

25. Harold J. Laski, A Grammar of Politics, pp. 411-413.
26. Jeffrey Stanyer, Understanding Local Government, pp. 29-30 and 60.
27. Samuel Humes and Eileen Martin, The Structure of Local Government : A Comparative Survey of 81 Countries, pp. 28 and 35.
28. J.J.N. Cloete, Munisipale Regering en Administrasie in Suid-Afrika, pp. 81-82.
29. The Rossouw Committee Report, p. 11.
30. The Botha Committee Report, p. 26.
31. The Borckenhagen Committee Report, p. 24.
32. Department of Community Development, An Outline of Local Government in South Africa, pp. 1-3.
33. T.E. Dönges and L. de V. van Winsen, Municipal Law : With Special Reference to the Cape Province, pp. 1-3.
34. Middelburg Municipality v Gertzen 1914 AD 544; De Villiers v Beaufort West Municipality 1924 CPD 397; Lambat v Receiver of Revenue 1926 TPD 520; Isipingo Health Committee v Jadwat 1926 AD 113; Bloemfontein Municipality v Bosrand Quarries (Prop.) Ltd., 1930 AD 370; R v Bethlehem Municipality 1941 OPD 227.
35. Section 3 of Ordinance 20 of 1974.
36. Section 4 of Ordinance 20 of 1974.
37. See Chapter V of Ordinance 20 of 1974.
38. Sections 48-51 of Ordinance 20 of 1974.
39. Section 60 of Ordinance 20 of 1974.
40. Sections 74, 82 and 98 of Ordinance 20 of 1974.
41. See Chapters X and XI of Ordinance 20 of 1974.
42. Sections 171 and 188-189 of Ordinance 20 of 1974.
43. Cloete, op. cit., pp. 64-66.
44. Hill, op. cit., pp. 24 and 141-142.
45. Peter G. Richards, The Reformed Local Government System, p. 59.
46. Andrew Dunsire, Administration : The Word and the Science, pp. 167-168.
47. Report of the Committee on the Management of Local Government, paragraphs 325-326, 250, 273, 279, 286-287.
48. Emmette S. Redford, Democracy in the Administrative State, pp. 26 and 130.
49. Maurice Spiers, Techniques and Public Administration, p. 200.
50. Humes and Martin, op. cit., p. 81.
51. Humes and Martin, op. cit., p. 210.
52. Self, op. cit., pp. 136-137 and 260-261.
53. The Maud Committee Report, paragraphs 273-279, 286 and 293.

54. Hill, op. cit., pp. 193-194 and 207-208.
55. J.W. Cowden, Holmes' Local Government Finance in South Africa, pp. 254-257.
56. See, e.g., Laski, op. cit., pp. 61, 132 and 411.
57. Hill, *ibid.*
- 57A. Self, *ibid.*
- 57B. The Maud Committee Report, *ibid.*
- 57C. See Cloete, op. cit., pp. 42-43.
58. Dönges and Van Winsen, op. cit., p. 12.
59. L.C. Steyn, Die Uitleg van Wette, pp. 268-269 and M. Wiechers, Verloren Van Themaat : Staatsreg, pp. 400-401.
60. Dönges and Van Winsen, op. cit., p. 13.
61. *Ibid.*
62. See Dönges and Van Winsen, op. cit., p. 14 and Joyce and McGregor v Cape Provincial Administration 1946 AD 675.
63. See Steyn, op. cit., p. 268, Wiechers, op. cit., p. 400 and Dönges and Van Winsen, op. cit., pp. 15-16.
64. This follows from Chapters One, Four and Five.
65. See Chapters Three to Five.
66. This is a logical conclusion from Chapter Two read with Chapters Three to Five.
67. See Chapters Three to Five.
68. See Chapter Six.
69. See paragraphs 25-31 *supra*.
70. This is the author's view flowing from the study made thus far.
71. See paragraph 27 of Chapter Two.
72. United Municipal Executive, Voorstelle Vir 'n Konstitusionele Bedeling Vir Plaaslike Regering in Suid-Afrika, pp. 28-36.
73. Government Gazette No. 7654 dated 10 July, 1981, Notice 507 of 1981.
74. Notice 507 of 1981 in Government Gazette No. 7654 of 10 July, 1981.
75. Memorandum van die O.V.S. Munisipale Vereniging met betrekking tot die nuwe Grondwet, undated.
76. Letter dated 27 July, 1981, from the Municipal Association of Transvaal to the United Municipal Executive.
77. Cape Province Municipal Association, Proposed New Constitutional Changes on the Local Government Level, undated.
78. Natal Municipal Association, Memorandum on Enquiry into Regional and Local Government in South Africa, 22 July, 1981.
79. The Argus and The Cape Times for 18 August, 1981, pp. 3 and 5 respectively.

80. The Argus, 15th September, 1981, p. 1 and The Cape Times, 16th September, 1981, p. 2.
81. See, e.g., the Report of the Royal Commission on Metropolitan Toronto, Vol. 1, pp. 50-52 and Richards, op. cit., pp. 53-54.
82. See, e.g., paragraph 50.5 of Chapter Six.
83. Durban City Council, Council Minutes dated 10th August, 1981, pp. 849-852.
84. The Argus, 18 August, 1981.
85. See, e.g., paragraph 20 of Chapter One.
86. Section 9(2) of Appendix Four.
87. Sections 10, 11(d), 12, 13 and 14, read together, of Appendix Four.
88. Section 11 of Appendix Four.
89. An examination of Ordinance 20 of 1974, for example, does not reveal any functions in the sense of how a council must approach its tasks.
90. See section 13 of Appendix Four. For an explanation of the doctrine of ultra vires see paragraph 9 of Chapter Four.
91. The Cape Times, 30 September, 1981, p. 13.
92. Sunday Times, 27th September, 1981, p. 26.
93. See paragraph 40 supra : all the systems suggested are more or less racial.
94. Preamble to Ordinance 9 of 1836.
95. Section 28 of Act 45 of 1882.
96. Section 31 of Ordinance 10 of 1912.
97. The Municipal Franchise : A Statement of the Policy of The Council of the City of Cape Town, pp. 12-14.
98. Section 27 of Appendix Four.
99. See paragraphs 57-61 of the Maud Report; paragraphs 88-98 of the Marais Commission Report; and paragraphs 58-73 of the Slater One Report.
100. See D.L. Craythorne, Municipal Administration : A Handbook, pp. 88-91.
101. Section 31(a) of Appendix Four.
102. Section 31(c) of Appendix Four.
103. Section 31(e) of Appendix Four.
104. Section 31(f) of Appendix Four.
105. Section 31(g) of Appendix Four and contrast it with the powers of the Transvaal Management Committee in Craythorne, op. cit., p. 113.

106. Section 32 of Appendix Four.
107. See, e.g., paragraph 110 of the Marais Commission Report.
108. Section 36 of Appendix Four.
109. Section 37(1) of Appendix Four.
110. Section 37(1)(a), (b) and (c) of Appendix Four.
111. Section 38 of Appendix Four.
112. See Section 52 of Ordinance 20 of 1974.
113. Richards, op, cit., p. 53 and W. Harvey Cox, Cities : The Public Dimension, pp. 23-30, and p. 26 in particular.
114. See, e.g., sections 58 and 188(1) of Ordinance 20 of 1974.
115. See, e.g., Craythorne, op, cit., pp. 103-120.
116. The Maud Committee Report, paragraphs 538 and 547.
117. The Marais Commission Report, paragraphs 99-100.
118. The Maud Committee Report, paragraphs 99-102.
119. See, e.g., Hill, op. cit., pp. 155-157.
120. See, e.g. Laski, op. cit., pp. 146-148.
121. See sub-sections (a), (c), (d) and (e) of section 55 of Appendix Four.
122. Craythorne, op. cit., pp. 38-39, quoting Gellhorn.
123. Hill, op. cit., p. 127.
124. Richards, op. cit., p. 163.
125. Cox, op. cit., p. 224.
126. The Maud Committee Report, paragraphs 443-447.
127. Paragraphs 10.9.6 and 10.9.8 of the Browne Committee Report.
128. The Cape Times, 13 August, 1981.
129. Sunday Times, 27 September, 1981.
130. See, e.g., paragraphs 19, 36, 37 and 69 of Chapter Six.
131. Dönges and Van Winsen, op. cit., pp. 35-38.

CHAPTER EIGHT

AN ORGANISATIONAL MODEL

1. The framing of an organisational model is a consequence of the prescription of a constitutional model, and it also followed that an organisational model will provide for the division of the municipal service into departments based on specialised function. As a result a suggested scheme of departments will be outlined but of equal importance is the method used to obtain overall co-ordination and a common effort to deal with community problems. In this Chapter before the proposed scheme of organisation is set out, there will be an examination of organisation theory, policy, administration and leadership. The references to theories are kept as brief and as relevant as possible.

ORGANISATION

2. In examining organisation theory, it is fairly common to commence with a discussion on the concept of bureaucracy.¹

Bureaucracy

3. Discussions on bureaucracy usually commence with some references to Weber. Weber described officialdom as functioning according to certain rules, the first of which was that legal order systems are governed by rules and fixed jurisdictional areas. Other rules were that the principles of office hierarchy and graded authority applied which led in turn to office management being based upon written documents, and with thorough and expert training being required for

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specialised office management. The official is required to devote his full working time to official activity for the period defined in his appointment and office management follows along the lines of general rules which tend to be stable and exhaustive, and which can be learned.²

4. Weber also stated that the bureaucratization of an administration always resulted in the specific development of administrative tasks. The decisive reason for the advance of bureaucratic organisation had always been its technical superiority over any other form of organisation. The more complicated and specialised modern culture becomes, the more its external supporting apparatus demands the personally detached and strictly "objective" expert. Bureaucratic organisation usually came into power on the basis of a levelling of economic and social differences--bureaucracy inevitably accompanies modern mass democracy.³

5. Albrow states that a criticism which can be levelled against Weber is that he created an unnecessary confusion in vocabulary in that the application of the term bureaucracy to the structure of modern administration created ambiguity and a case could be made in favour of an emphasis against precision in definition, i.e., a structure which is rational can easily generate consequences which are unexpected and detrimental to the attainment of an organisation's objectives. It can be argued that administration cannot be purely rational and that it is impossible to adhere to a rule without the intrusion of general social and political values. To argue otherwise would be to allow the bureaucrat to escape consequences of his decision.⁴ It is possible that Albrow's criticism arises from difficulties in translating Weber's work from the German. In commenting on the remedies for bureaucracy, Albrow states that the commitment of the official to democratic values is a more important safeguard for democracy than any formal system of control, and this could be achieved by a strong emphasis on professional competence and the recruitment of persons of the right calibre.⁵

6. March and Simon describe the dysfunctions of Weberian bureaucracy in terms of the need to analyse and deal with human behaviour in

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large organisations, i.e., the needs of individuals, the study of morale and productivity. In other words, it is necessary to balance between the needs of individual personalities and the needs of the organisation.⁶ Dunsire, in commenting on the dysfunctions of bureaucracy, states that where bureaucracy is found wanting in some respect or another and a new rule is inserted, the resulting vertical hierarchical pressure results in greater horizontal group pressure against "authority". The dysfunction could be perceived to exist because of a mechanistic instead of an organic organisational approach.⁷

7. The views of those who hold views about bureaucracy leave unanswered the question of how services are to be provided. Weber postulated that in the modern state there is law and authority and a hierarchical structure of appointed officials who would administer the affairs of society. As populations increase and technology advances, so will society become more complex, to the extent that public business cannot be transacted without a corps of paid officials, and, because the services needed vary in their nature, there will have to be specialisation. The average municipal council can be taken as an example. If there were to be just one amorphous mass of officials, appointed on some basis other than specialisation, the services could not be rendered and the public would not know who to approach with specific problems. It seems that if bureaucracy in the Weberian sense is to be rooted out of society then society itself will have to be changed in a radical way which it would be difficult to imagine. Until that day arrives there will always be a need, at the municipal level at least, for a corps of officials ranked in a hierarchy and divided according to specialised activity.

Organisation in General

8. The word organisation means a concept relating to a particular field of public administration, while "an organisation" will mean a particular form of organisation in public administration, e.g., the civil service, the departments of a municipal council. the Iron and Steel Corporation, etc. This sub-section is concerned with the conceptual approach. Pugh describes organisation theory as the body of thinking

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and writing which addresses itself to the problem of how to organise, and more specifically, organisation theory is the study of the structure, functioning and performance of organisations and the behaviour of groups and individuals within them.⁸

9. Simon sees organisations in terms of the distribution of decision-making functions and the processes whereby the organisation influences the decisions of each of its members. Organisations also have an influence on the individuals in them, which he describes as permitting stable expectations as to the behaviour of the other members of the group.⁹ Albrow states that the facts of organisational structure are not unambiguous data but abstract and elusive phenomena which depend on interpretative inventiveness. In particular, the boundaries of organisations are difficult to draw.¹⁰

10. Brown, in discussing formality and informality in organisational structure, states that there are those who plead for vagueness in structure so that individual creativeness can have a better chance but there is evidence that vague and confused organisation is the enemy of creativeness.¹¹ Spiers states that organisations can be perceived as being different things or objects, e.g., machines or societies, and the existence of different theories has an important effect on practical administration in the application of various techniques.¹² Spiers states that organisations can be described in terms of machines, needs and responses, as societies, as socio-technical systems, as cultures or in terms of the people within them.¹³

11. Likert sees organisation as being closely related to leadership, and, basing his view on what he describes as successful management, he states that a newer theory of organisation can be stated. In essence the attitudes of persons within the organisation turn on motivation deriving its source from leadership which builds mutual trust and confidence, resulting in a tightly knit, effectively functioning social system. The traditional, American, pattern of organisation is the man-to-man pattern in which there is one boss who believes that he is appointed to the job because of some special qualities he possesses and who shares information but not

decision/.....

decision-making. Such a traditional pattern leads to competition between line managers and not openness in a group context. The tighter the hierarchical control the greater the tendency towards hostility among subordinates.¹⁴ Baker states that the classical school of organisation theory embraces the idea of an orderly structure of authority and responsibility but most public service can only be carried on effectively by the consent of both employees and of the public generally. In many public functions consultation is more important than the exercise of authority. The very complexity of society makes it necessary to consider the human needs of public employees but this alone will not be enough because internal organisation will become more complex giving rise to differences between routine operations and innovative, creative and highly flexible activities. The very changes that occur in society will change the organisations that serve that society.¹⁵

12. Keeling is concerned with the management of the public service, and as he envisages this as a series of systems,¹⁶ it will be fruitful to explore his views. Keeling states that the concept of the system indicates a relationship between the system and its objective. There is a hierarchy of systems moving up from the primary level to the macro-system level of government as a whole. In contrast to the idea of a primary objective of organisational survival, there is the more positive approach of the performance which defines success. The genus public service is made up of a spectrum of major systems in which several distinct species are to be found, e.g., management systems, the judicial system, administration systems, the diplomatic system, which operates to keep the central machinery operating effectively, and the integrative-allocative management system in which higher level systems have direct control over sub-systems.¹⁷

13. Redford states that organisations are developed to serve the interests of some kind of clientele and organisations tend to develop an additional set of interests related to personal and group interests that are separate from the service values of the organisation but, because an organisation responds to internal and external stimuli, an organisation pursues a great number of purposes concurrently.¹⁸ Finally, Self states that an organisation does not consist of a set of persons and equipment but

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of a system of co-operative action governed by rules and by actual or presumed objectives.¹⁹

14. From this general view of the concept of organisation, attention will now be paid to two diverging views on organisation, namely, mechanistic and organismic organisation. However, it can be stated at this stage that the wide range of views on the concept of organisation can create difficulties when the time comes to select a particular model.

Mechanistic Organisation

15. Burns identifies two types of working organisation, the one he calls mechanistic and the other organismic. In the mechanistic system the problems and tasks are broken down into specialisms and "somebody" at the top is responsible for seeing that one employee's work relates to that of others. Powers and duties are precisely defined and a high value is placed on precision and demarcation. Interaction within the organisation follows vertical lines and work actions are prescribed by functional roles and governed by instructions and decisions issued by superiors. There is a specialised differentiation of functional tasks and the rights, obligations and technical methods attached to each functional role tend to be precisely defined and to become translated into the responsibilities of functional positions. The whole hierarchy of command is based on the assumption that the "boss" is omniscient and insistence on loyalty and obedience to superiors tends to be a condition of membership. Burns states that the mechanistic system is in fact the rational bureaucracy of earlier generations which provides an ordered world with diminishing ranks of information and understanding as one proceeds down the hierarchy.²⁰

16. Baker refers to the differences between "programmed decision-making" as being based on routine and standard frames of reference, and "non-programmed decision-making" as being based on new initiatives and a flexible approach to each problem. He also describes mechanistic organisation in terms of the differentiation of functional tasks based on specialisation, a hierarchic structure of control, authority and communication, an emphasis on loyalty to the organisation and superiors and

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assumed omniscience at the top.²¹

17. Dunsire describes scientific management as the replacement of the "hunch" by observation and measurement, and by calculation and rational methods, leading in turn to the expression of governmental activity in terms of clear, cogent and rational administrative technology. This school of thought had a tremendous influence on public administration in the twenties and thirties.²² Dunsire also states that two structures had evolved in administration, and one of them, based on Weberian bureaucracy and the scientific management school, was a system connoting clear lines of authority, clearly defined duties and responsibilities, and co-ordination only by superiors who were the only ones who had an overall view of the organisation.²³

18. Self states that the scientific administrators, Mooney, Fayol, Urwick, Taylor and others, exposed certain obvious shortcomings in the governments of their times but also believed that they could provide a more comprehensive set of principles for arranging the formal structure of administration based on co-ordination, effective specialisation, effective performance and the provision of staffing services to assist planning and co-ordination. These views stressed the need for a unified and disciplined system of authority, i.e., management theory was guided by authoritarian and mechanistic assumptions, with the emphasis resting on formal structure and disciplined organisation.²⁴ Self adds that the human relations and systems schools have since evolved, the first believing that the individual's wish for personal fulfilment and for congenial work relations had to be met, and the second viewing rules of organisation as no more than flexible devices for producing satisfactory decisions.²⁵

19. Finally, Henry describes organisation theory as providing the roof over the pillars of politics and ethics. He further describes a model as a tentative definition which does not try to express the basic, irreducible nature of the object, leaving open a freer adaptation to circumstances. The model of organisation described by Henry as closed involves the routinisation and specialisation of tasks and operations

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within a hierarchic structure, with decisions, knowledge and adjudication coming from the top. This model tends to interact vertically and emphasises obedience, responsibility for one's job and loyalty to the sub-unit.²⁶

Organismic or Organic Organisation

20. Burns describes what he calls organismic systems as being adapted to unstable conditions, when new and unfamiliar problems and requirements continually arise which cannot be broken down and distributed among specialist roles within a hierarchy. As a result, jobs lose much of their formal definition; the demarcation of functions becomes impossible; responsibilities, functions and methods have constantly to be re-defined through interaction with others participating in common tasks or in the solution of common problems; and each individual has to do his job in the knowledge of the overall purpose and situation of the organisation as a whole. Interaction runs horizontally as much as vertically and communication between different ranks tends to resemble lateral communication rather than vertical command.²⁷ Burns also states that the organismic form of organisation is appropriate to changing conditions which constantly give rise to fresh problems and unforeseen requirements for action. He further describes the characteristics of organismic organisation as special knowledge and experience contributing to the common task of the concern and commitment is spread beyond technical definition. This commitment is also more highly valued than loyalty. The nature of the individual task is seen as being realistically set by the total situation of the concern and there is a continual adjustment redefinition of individual tasks through interaction with others. Omniscience is no longer assumed at the top.²⁸

21. Baker refers to organic organisation as non-programmed decision-making, which requires a common culture of dependably shared beliefs about the common interests of the working community and about the standards and criteria used in it to judge achievement, individual contributory expertise and other matters by which a person, or a combination of people, are evaluated. A system of shared beliefs of this kind is expressed

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and visible in a code of conduct.²⁹ In an organic organisation the individual's responsibilities to the organisation are broad and not precisely defined and evasion of personal responsibility is discouraged. It is presumed that the survival and growth of the organisation is a principal aim for individual conduct. Omniscience is no longer imputed to the head of the concern and internal communication is horizontal rather than vertical, being based on readiness to co-operate rather than command. Commitment to the organisation's task is more highly valued than loyalty and obedience.³⁰

22. Dunsire describes the opposite of the model referred to in paragraph 15 supra as giving the appearance of chaos because there is no clear definition of place in the hierarchy; no clear allocation of duties; no clear idea of what to do with any piece of work or any problem; and the man at the top might have no more of an overall view than a man half-way up, and subordinates could be co-ordinating their superiors' work as often as the other way round.³¹ Henry describes what he refers to as an open type of organisation as being more part of the private than the public sector in America. This model is essentially non-routinised, with the emphasis on getting the job done and discarding job descriptions in favour of a corporate contribution to all problems. The organisation is perceived as being fluid and knowledge can exist anywhere in the organisation, while interaction tends to be horizontal and directed towards accomplishment based on an image of intimacy. Achievement and excellence of performance are emphasised and organisational status is determined by professional ability and reputation instead of rank.³²

SUMMARY

23. Organisation theory is a fluid and evolving concept, with the trend of change flowing away from the more rational or scientific, i.e., mechanistic, models, to the more organic or human relations or systems schools of thought. It is nevertheless true that the Weberian concepts of structure and hierarchy, formal order and formal authority still have

a place in organisation because in municipal administration the delivering of services needs to be done by an organisation structured on rational or systemic lines. However, the problem is not simple since in terms of modern thinking the municipal machine must be viewed as a whole and in this light the question of the relationships between departments and overall co-ordination are of great importance. The municipal organisation is also affected by the systems adopted by councillors for their functions. If organisation in general can be given a short description that is not too misleading, then, it is submitted, organisations could be described as consisting of: a number of employees charged with various tasks and who work within a structure which is shaped by the functions of the organisation; and that the organisation exists to cater for the needs of its client group as well as for the needs of its members. The effectiveness of organisations will also be determined by the degree to which the members obtain leadership and co-ordination.

24. Organisation theory has evolved from the mechanistic approach as outlined in paragraphs 15 to 19 supra, in which the approach is strongly rational and efficiency orientated to organic or organismic organisation as described in paragraphs 20 to 22 supra, and which is open and gives an impression of being formless or inchoate. The more organic an organisation becomes, the less formal it becomes and this is why the relationships in the higher levels of an organisation will tend to develop an organic approach.

Organisation in Local Government

25. The internal organisation of local authorities is to some extent influenced by the systems used by the councillors, e.g., the multiple committee system or the management committee. The first and most obvious approach to internal local government organisation is that organisational function is based on the rendering of services and thus local authorities organise their officials into a structure of departments which are internally hierarchical, in order to be able to fulfil their service functions. This can be described as the what of local

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government organisation, i.e., it is a descriptive picture. Of greater importance, it is submitted, are the how and the why of internal local authority organisation as these concepts are concerned with the relationships between the persons involved, how the organisation brings them to the point where they work together, and the reasons for co-operative action.

26. Humes and Martin perceive the structure of local government as being influenced by the structure of higher levels of government but they also see two factors in particular as being relevant to structure. The first is the way in which the single chief executive is selected, and the second is the other types of organs, in addition to the council itself, that are involved in the exercise of executive powers. Where, as in the United Kingdom, executive power is concentrated in committees, the consequences are that there is a diffusing effect, with the chief executive seldom a strong leader in council or staff affairs; there is no official expected to provide policy leadership; and councillors, when they function as chairmen of committees, adopt a mediatory role. A study of structure does not indicate how local authorities operate and while such a study provides a basis for understanding, the answer lies in a review of effectiveness and the approach to the future.³³

The Maud Committee saw the internal organisation of local authorities in terms of that organisation not being codified in the law and thus existing as a structure as a result of various statutory provisions--presumably statutory provisions relating to the rendering of services--and of custom and practice. However, the absence of a managing body resulted in the decentralisation of executive power and a disunity over the whole of the organisation.³⁴

27. The Marais Commission stated that a serious impediment to effective administration was the large number of departments found in Transvaal local government, many of them with heads graded as equals and who did not recognise any one official as the head of the organisation. This fragmentation of the municipal service was the greatest single factor working against effective administration and honest municipal government. An organisation fragmented to that extent was unable

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to perceive the direction in which it was headed, with the result that personnel administration and general managerial oversight did not exist.³⁵ The Slater One Committee perceived the organisation of the Cape Town City Council in terms of its size and complexity and the need to introduce functional reform by establishing a chief executive, and making constructive efforts to build up an efficient, well-organised and well integrated staff.³⁶

28. Stanyer, a British writer, states that the confusion about the internal organisation of local authorities encompasses both councillors and officials. Traditionally form and function were defined by the services rendered and calls for the simplification of structure aimed at streamlining decision-making and communication had not been successful because such new systems were not seen as desirable in the light of the complex demands of society.³⁷ The Bains Report saw the problems of local government organisation in the need for the centralising of policy-making, the role of chief officials in these activities, and at official level, the need for greater corporate effort.³⁸

29. One of the organisational problems of local government derived from the British pattern, is departmentalism. The Maud Committee described departmentalism as a derivative of the multiple committee system, in terms of which the various committees with executive powers each administered a corresponding service or department with the result that the function, the committee and departmental head tended to become vertically interlocked and self-contained.³⁹ The Marais Commission described departmentalism as the consequence of the work to be done becoming too great for the council to handle at its meetings, with the result that committees were formed. To each committee was entrusted the task of controlling the work of one or more departments. The consequence was that the council's staff were divided into jealously guarded departmental compartments more concerned with the maintenance of petty authority than the maintenance of effectiveness. Municipal government in South Africa at that time was the only modern organisation system which permitted independent sections of the management machine to exist side-by-side

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without a co-ordinating and managing chief official.⁴⁰ The Bains Report stated that the insistence of the legislators on statutory committees encouraged both councillors and departmental heads to adopt a departmental rather than a corporate approach.⁴¹ The phenomenon of departmentalism accords with the views of Riggs given at the end of Chapter Six, viz., that organisations are first prismatic and then later on diffract and co-ordinate. South African local government can thus be described in broad terms as being in a phase between fusion and diffraction.

30. From paragraphs 26 to 29 supra, it will be seen that local government internal organisation follows functional lines for obvious reasons but in terms of overall effectiveness, the critical point is reached in the upper managerial and decision-making levels. The manner in which councillors organise themselves to take decisions and related issues such as the functional operation of the chief executive and the degree of co-operation which exists between the chief officials all determine the extent to which the local authority will succeed in its primary task of being responsive to local needs according to the tenets of democracy. The actual "line work" of delivering services will, it is believed, necessarily have to follow a closed, bureaucratic and mechanistic form of organisation but it is also true that unless the senior managerial levels adopt an organic, open and co-operative system of functioning the local authority will not be able to function with full effectiveness and responsiveness and such a failure could result in greater centralised control by higher levels of government.

LINE AND STAFF

31. The purpose of this sub-section is not so much to argue the merits and demerits of line and staff as to put this concept in perspective as far as organisation is concerned. Accordingly, a brief perspective of a few opinions on the concept follows:-

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- 31.1 Line connotes action and staff, influence. Formerly line was said to be action with a monopoly of authority and command whereas staff work was merely advice and facilitation. Increasingly the sharp distinction between line and staff is no longer being stressed in the belief that authority is more a matter of influence than command, and that both are involved at most levels of operation. The continued division of work because of specialisation gives rise to the need for more staff work to achieve a unified and balanced administration.⁴²
- 31.2 The type of organisation known as line is one in which there is a direct control from top to bottom and is similar to the military type of organisation. Because there is a limit to the number of persons one line officer can control, the hierarchy in even a fairly simple organisation can be complex. Where a line officer finds it necessary to have an assistant to carry out specialised functions without having any executive powers, he uses a staff officer. In addition, staff officers can provide common services in the organisation.⁴³
- 31.3 The employment of specialists to advise those in the direct line of authority is "staff".⁴⁴
- 31.4 Line services refer to those activities that are substantive or direct in their contribution to the city administration's objectives while staff services are supportive or indirect in their contributions to the administration's objectives. The staff function provides the manpower, money, equipment, materials and buildings required by services. Staff-line relationships frequently produce tensions and conflicts because line officials resent the controls exercised by staff officials and their inspec-toral functions, as well as their influence with the chief executive. Staff officials, on the other hand, sometimes tend to be uncertain of their status, feeling frustrated at their inability to show objective proof of their contributions as they do not produce concrete or tangible things, sometimes leading to a tendency to be over-aggressive. Another cause of conflict is the tendency of staff personnel to become negative and rigid. However, these

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conflicts can be reconciled by the clear demarcation of responsibilities, more "on the job" contact and the rotation of line and staff personnel so as to build understanding. Another factor likely to assist in reconciling conflicts would be the establishment of an overall management climate which emphasises results, teamwork and loyalty to the enterprise as a whole rather just to segments of it.⁴⁵

31.5 Increasingly, line-staff conflicts are becoming less important because of a "unity of purpose" among the members of the organisation. In such situations the staff man can make decisions for the line without any ill-effects and this development is especially important in the "temporary organisation" of the matrix type, consisting of line and staff people assigned to project work.⁴⁶

31.6 The borrowing of staff functions from military organisation has led to problems in civilian applications of the concept. In military organisations an officer classified as "staff" will have authority on behalf of the commanding general to issue orders to other units, while other specialist line officers would not have so much authority. In civilian terms a line manager is a general manager while their specialist advisers are called "staff". In some organisations line management may only consist of the individuals at the head of separate units while in other organisations there are line departments and staff departments. Management theory has not yet provided a sufficiently clear guide as to what the staff and line principle should mean in civilian organisation. The basic fallacy is one of authoritarian outlook, viz., the idea that only one person or group can exercise independent initiative and authority, while everyone else must only advise and obey. In really large and complex organisations such ideas are simply out of touch with reality.⁴⁷

32. The value of the views set out above lies in the acceptance of the fact that every organisation needs authority to achieve results in respect of certain functions but there is also a need for advice of a specialised nature, often provided for the whole organisation. In

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municipal administration, examples of a so-called staff function would be organisation and methods, legal advice, accounting services, data processing, forward planning or the administration of property. However, once different functions in an organisation have been labelled those forced to bear the labels are forced into a position of adopting attitudes commensurate with their assigned roles and, unless the persons concerned are correctly motivated, conflict is possible. It seems that the main answer lies in assigning roles, e.g., superintendence of refuse disposal or accounting services, based on clear job descriptions and job responsibilities but without the somewhat emotional connotations of line and staff.

SPECIALISTS AND GENERALISTS

33. The question of generalists and specialists, and the power struggle that sometimes occurs between them is also linked to organisation theory and indeed can be described as being to some extent related to the line-staff problem. For the same reasons given in paragraph 31 supra, the summary of views that follow are merely given to obtain a perspective and not to make an exhaustive enquiry into the dichotomy:

33.1 The specialist role is one in which the incumbent is accountable for assisting a manager in a specific dimension of his work by the discharge of one or more of: advisory responsibility; service-providing responsibility; and staff responsibility.⁴⁸

33.2 Administrative efficiency is supposed to increase with an increase in specialisation but the initial simplicity of the principle of specialisation is deceptive, for specialisation is not a condition of efficient administration but an inevitable consequence of all group effort. Specialisation merely means that different persons are doing different things. The real problem is not the decision to "specialise" but to specialise in a particular manner and along those lines that will lead to administrative efficiency. To gain the advantages of specialised skill in a large organisation the work of the organisation is subdivided as far as possible, in such a way that all processes requiring a particular skill can be performed by persons possessing that skill.⁴⁹

- 33.3 English local government is rooted in professionalism and almost every service has been made into a profession and this has prevented the appearance of the administrator as such. Heads of departments including the town clerk are assumed to occupy their positions because they have marked administrative ability as well as the expertise necessary for the technical supervision of the department. For the administrator without training in one of the professions one has to look to the chief clerk level.⁵⁰
- 33.4 The dominant position of the generalist has turned upon his capacity to interchange staff and line functions in a flexible way. Scientific training often makes an expert scrupulously objective about the policy implications of his knowledge and it is not unusual for pure scientists to take an aloof attitude towards administrative decision-making. On the other hand, a few scientists and many technologists are prone to policy judgments which considerably exceed the relevance of their skills. Familiar examples are the narrow expert who exaggerates one technical factor in relation to a complex decision. The dissatisfaction of specialists has been one cause for the creation of integrated hierarchies in which generalists and specialists are merged in one division under a head selected according to the nature of the work. The idea that the generalist should become an expert in management techniques is wholly out of line with his actual functions which combine a mixture of diplomatic, semi-judicial and managerial activities. Specialisation by broad policy area rather than by administrative process represents the desirable evolution for general administration.⁵¹
- 33.5 Because British local authority services are all professionals, generalists have restricted promotional chances compared with specialists, in marked contrast to the situation in the central civil service. In this respect British local authorities are more like universities and hospitals, in which a generalist may expect to get only half to three-quarters the way up the hierarchy of the local authority even if he is very successful, while the specialist tends to enter half-way up with the chance of reaching the highest positions.⁵²

33.6 It is sometimes urged that the whole concept of general-purpose administrators is wrong and that all public administrators should be experts or specialists. Where a problem exists affecting a number of different disciplines what is needed is someone essentially qualified for co-ordinating the whole problem. The more important question is not to give specialists general administrative powers but how to ensure that those who concentrate mainly on their specialisms should still have an effective voice in policy decisions.⁵³

33.7 It is not necessary for a chief executive to be technically qualified in any of the disciplines of the people he controls. Private enterprise seldom uses a technical expert as chief executive for the reason that specialists usually cannot but help having a one-sided view of problems.⁵⁴

34. The above selection of views indicates the need for a variety of disciplines in an organisation, a number of them being specialised and hence likely to take a narrow or "professional" view of problems whereas the generalist by training and experience is meant to take a broader view and to act in a co-ordinative capacity. It is submitted that the accountability of the specialist is much narrower than that of the generalist, being confined to a specific field. Specialisation as such will not necessarily result in more efficiency and the introduction of specialisation should be controlled so as to bring the benefits of the disciplines to the community as a whole and not just to bring professional satisfaction to the specialists. The general administrator, in his training and his work, should avoid bias for or against any particular profession but should rather cultivate the qualities of a broad outlook, analysis, leadership and tolerance, and this includes allowing the specialist an opportunity of stating his views. There is also the possibility that specialists could be tending to become more general in their outlook, while conversely the generalists could be tending increasingly to specialise as public administration becomes more complex. Should this happen, the differences emphasised supra will, it is submitted, tend to disappear.

THE ROLE OF OFFICIALS : POLICY
AND ADMINISTRATION

35. It is common in local government circles to hear councillors expressing the view that they decide policies and that officials carry them out. This is not true but the existence of the dichotomy, even though it may be dying out, justifies a brief examination of the nature of policy in the context of administration. Dunsire has identified fifteen different meaning of the word administration ranging from help or service, through balancing and presenting for decision complex policy considerations, to an area of academic and theoretical research. Dunsire also states that administration starts with analysis, assigning due weights to each factor in the problem balancing short-term considerations against long-term considerations and the work of an administrator is distinct from the work of persons trained in a specific professional capacity and employed in that capacity.⁵⁵

36. Appleby states that it is useful and possible to consider administration apart from policy because it was long believed that administrative personnel were not policy-making. When it comes to definitions this is difficult in social science and often leads to misunderstandings. However, while legislatures make policy for the future they have no monopoly on that function and administrators are continually laying down rules for the future and administrators also participate in policy-making in another way by formulating recommendations for legislation. While it is true that legislative bodies make very general policy and that administrators make policy by applying that policy at successively less abstract levels, this is by no means valid having regard to the many very broad policy decisions made at the executive level, and the intrusion of legislative bodies into the administrative field. In practice many types of decisions requiring policy-making are delegated as a matter of necessity while on the other hand, almost any type of decision can become a matter for top-level consideration. The great distinction between government and public administration on the one hand, and other organised undertakings and forms of administration, on the other, is to

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be found in the political character of the former.⁵⁶

37. Nigro and Nigro state that in the complex American society the executive branch has developed so much power that it would be ludicrous to state that all administrative officials do is to carry out policies made by a legislature. One reason for the policy-administration dichotomy was a desire to keep politics out of administration. The participation of officials in policy-making came about with the growth of administrative discretion and while modern social and technological changes have given rise to a need for administrative discretion, officials also have a role to play in recommending policy. The success or failure of public administration will depend on how creatively the officials approach their task. If there is no separation between administration and politics, then any participation in the formulation of public policies means, ipso facto, involvement in politics. When a public administrator recommends legislation or makes policy decisions on the implementation of a law, he performs a political act. The policy-administration dichotomy was always fiction and has now become an absurdity.⁵⁷

38. Self states that the conventional view of the relationship between politics and administration is that of one between ends and means. Politics in its more specific sense is concerned with the use of power while the conventional view of administration is that it is concerned with translating into practice political decisions which are independently derived from other sources. So simplified a distinction has never been realistic at the higher levels of administration and the dividing line between policy and administration has always been an artificial one. A matter becomes political by being made so and often specific cases stir political interest while generalised rules pass unnoticed. In Britain top government administrators wield more influence than does the average Member of Parliament and the main interactions between politics and administration occur at the top level of government. Politics is an area of change and indeterminacy while administration is one of stability and routine. The interaction between politicians, the ultimate decision-makers, and officials occurs as a result of their different roles.⁵⁸

39. Hill refers to policy and administration as being reflected in the interlocking of the democratic and administrative units. This split of policy and administration is a "fallacy" and increasing complexity of local administration is changing the traditional roles of councillors and officials, even to the extent where the official is the policy-maker and the councillor carries out routine administration. The simple dichotomy between elected policy-makers and official executors is no longer believed to be a sine qua non of true democracy but there is also concern over the qualities which both councillors and officials should possess. If officials are not to be mere tools then it is desirable for them to be sensitive and outward-looking rather than a remote priestly caste, but sensitivity and responsiveness is less of a problem with officials than their accountability.⁵⁹

40. Riggs puts the problem in a different perspective. After pointing to the indirect nature of modern elected government he states that theory indicates the election of public representatives to decide policies and the appointment of persons to implement the policy decisions of the elected representatives, hence the idea of the separation of administration from politics. To describe politics as being separate from administration is probably untrue. Starting with the basic premise of equality of rights and majority rule, it follows that elected decision-makers have to delegate responsibility to decision-implementers who have the right to devise technical means to carry out the policies given them but no right to formulate policy goals. Thus, while the separation of politics and administration may not be valid as a descriptive hypothesis it is a prescriptive principle or norm logically connected to the underlying value premise of a democratic political system.⁶⁰

41. Taking together the views of the British writers, Dunsire, Self and Hill supra, it seems that in practical terms there is no value in seeking to impose functional lines of demarcation between politicians and officials in respect of participation in policy formulation. The term formulation is used advisedly since the making of a policy will depend on the power or authority to take a binding decision. In other words, while politicians and officials may, and should, work together

as a team in the formulation of policies their roles differ and it has to be accepted that it is the politicians, as the final decision-makers, who will be held accountable and this knowledge will inevitably colour their approach to policy decisions. Thus, in local government, the accountability of officials will be a matter for each council itself to deal with, and not the public at large, assuming that the council has not abrogated its decision-making function in favour of the officials.

42. Two of the American views, viz., those of Appleby and Nigro and Nigro accord with what is stated in paragraph 41 supra in the sense that there is no factual foundation and hence no purpose, in seeking an artificial boundary between politics and administration. Senior officials operate in a political environment as a result of their functions and the increasing complexity of modern society. The views of Riggs seem to re-introduce the dichotomy but it is submitted that this is not necessarily his intention. Riggs is writing about developing countries where fusion of the administrative process occurs and he seems anxious to stress the need for a vigilant form of democracy. The key to his views, it is submitted, is his admission that officials may well formulate policy goals but have no right to do so.

43. When it comes to the administrative model for the metropolitan area it can be accepted, as has already emerged from the earlier parts of this Chapter, that most officials will operate in a stable and routine-oriented work environment but that this will not necessarily apply to the senior officials. If the Metro Council is to function effectively both it and the senior officials will have to work together in the formulation of policies but while the officials will as a result be acting in a political environment it is essential that they accept the political control of the elected representatives.

SPAN OF CONTROL

44. In framing an organisation model some attention needs to be paid to the concept of span of control, i.e., the number of subordinates a person can control, as this concept in relation to senior officials could,

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if applied, affect the structure of the organisation.

45. Self states that actual spans of control vary considerably within organisations without apparent ill-effects. A desirable span of control is influenced by the time available to the supervisor, the technical and personal assistance available to the supervisor, the quality and intelligence of the staff at all levels, the nature of the work being supervised, and psychological and social judgments about the desirability or otherwise of close supervision. A small span of control increases the number of levels of decision-making which is an obvious drawback as organisations get larger.⁶¹ Pigors and Myers state that the principle of span of control, which used to postulate that a manager could not effectively supervise more than half a dozen subordinates, has been found to conflict with another principle, of job enlargement, and a "flat" organisation structure in which increasing responsibilities are delegated from one manager to a large number of subordinates who are not constantly reporting to and checking with their immediate supervisor.⁶²

46. According to Baker the span of control doctrine is confusing and misleading. Elevated into a mathematical principle, such as one manager to six subordinates, it is nonsense. The elevation of span of control to a mathematical principle arose from a manager's assumed need to exercise control not only over his own subordinates but also over all their subordinates. The basic fallacy is that the top manager needs to be concerned with every bit of the necessary range of relationships below him. It is also a fallacy of the doctrine to ignore the fact in large organisations that the more the span of attention is narrowed, the greater the increase in the number of the layers in the hierarchy. The fundamental problem is not concerned with maintaining detailed control but rather a fair degree of communication within any large organisation.⁶³ Simon supports Baker's views and states that the mathematical notion of span of control is a contradictory proverb of administration. Administrative efficiency is enhanced by keeping at a minimum the number of organisational levels through which a matter must pass before it is acted upon. In a large organisation with inter-relations between members, a restricted

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span of control inevitably produces excessive red tape, for each contact between members of the organisation must be carried upward until a common superior is found and in a large organisation this is a cumbersome and time-consuming process.⁶⁴ Woodward refers to a study of 100 manufacturing concerns in which it was found that the span of control of the chief executive ranged from two to nineteen and that of the first line supervisor from seven to ninety.⁶⁵

47. The problem with span of control as a doctrine seems to lie in its application without reference to the nature of the organisation, the costs involved or the alternatives available. It is agreed that it is absurd to set a norm of five or six subordinates as the norm for the chief executive. The better course would be to examine the complexities of the chief executive's job. In the case of the Metro Town Clerk he will not only be pre-occupied with heads of departments but also with those functions that report direct to him, the executive committee and persons from outside the organisation--all this will be shown in more depth infra. Accordingly, it would be advantageous to retain a limited number of more large departments. However, this in turn poses the problem of internal departmental control and here it is suggested that common-sense should prevail. To suggest, for example, that a foreman should only control five or six labourers is indeed nonsensical and the same remarks apply to technical and technician functions. The structuring of work flows through the use of organisation and methods and the inculcation of effective communications will be far more fruitful than blind adherence to a doctrine such as span of control. Accountability, where required, can be assured by effective delegations. In the context of the Town Clerk it is submitted that it is more the type of control he is required to exercise that matters and this could be why the Marais Commission recommended that he should not have any ordinary departmental responsibilities.

LEADERSHIP

48. Leadership is an elusive quality to analyse since it is to a large extent related to the personal attributes of the leader, i.e., theory about leadership has to acknowledge that what is written about leadership is qualified by the personal attributes of the people who are the leaders, and those attributes will vary from person to person. Within this constraint it is proposed to discuss the concept of leadership in order to determine the qualities required for the chief executive of the Metro Council. Before doing so, however, it is necessary to put on record that the councillors themselves, although not necessarily chosen by the electorate for any qualities of leadership they may possess, nevertheless are expected to operate, when acting corporately, in a leadership role. The problem with this type of corporate leadership, it is submitted, is that being a blend of the weak and dominant personalities of the people concerned, it tends eventually to become impersonal, difficult to relate to, and perhaps also to be perceived as being arbitrary and unfeeling. Improved councillor-staff relationships could help to obviate these disadvantages.

49. Weber identified three types of leader. The first was the patriarchal leader, who was a natural leader of the daily routine. Leadership in matters going beyond everyday routine has a charismatic foundation. Natural leaders in times of stress have been holders of specific gifts of the body and spirit, that is, of gifts which were believed to have been supernatural and not accessible to everybody. Charismatic structure knows nothing of form or ordered procedure or of appointment or dismissal: it knows only inner determination and inner restraint. The charismatic leader seizes the task that is adequate for him and demands obedience and a following by virtue of his mission. As long as he is recognised as the leader he is the master and it is the duty of those to whom he addresses his mission to recognise him as their charismatically qualified leader. Bureaucracy is also fashioned to meet calculable and recurrent needs by means of a normal routine and bureaucratic organisation is rational, with appointed staff and appointed leaders who are paid to lead. The bureaucratic leader is subject to functional jurisdictions.⁶⁶

50. Passett refers to the tendency to confuse various types of leadership and there are two views of this concept, the first being that a leader must have some political independence to act, so as to openly acknowledge inter-dependence with his subordinates, involving them in realistic goal-setting and moving them to integrate the productive requirements of the organisation with the more immediate needs of the people who man it. The second view is that there are four interacting schools of thought on leadership, namely:-

- (i) Traits: Leaders have a different psychological make-up from other people.
- (ii) Situations: The situation determines which mix of traits and capabilities work.
- (iii) Functions: Leaders plan and initiate, provide information and advice, make decisions and provide symbolic ('kingship') imagery.
- (iv) Birth or fate: Leaders are great men who are born that way and make history.⁶⁷

51. Dimock and Dimock state that leadership shows others by example and knowledge how to do a better co-operative job than if the members of the group were left to their own devices. Leadership is influence with people, not power over them: it is not power, dominance or social superiority. Leadership supplies encouragement leading to self-inducement or motivation and marshals the competence of the work group so that individual and group effectiveness grow with the challenge of the job. It is therefore the leader's task to supply dynamism and he must not only understand his organisation and have a sense of timing and rhythm but he must also have a clear concept of plans and strategy, have people he can rely on to do the job, and have a streamlined organisation with a direct flow of responsibility so as to get the job done. A leader also needs to be on guard against a cumbersome superstructure of staff and advisory personnel who merely get in his way and take up his time but he also needs to keep a balanced surveillance over the organisation and to ensure that he obtains progress reports.⁶⁸

52. Taking what has so far been written on leadership, it can be said that leadership is related to the circumstances of the particular society, the nature of the leader himself and the environment--bureaucratic or otherwise--in which he operates, but just as all men are not charismatic leaders it is also possible to train bureaucratic leaders in leadership. This last statement is based on the premise that a leader is someone who has been accepted as leader by those below him. It can also be said that a leader supplies the dynamism and motivation needed by the organisation and develops a close relationship with those who serve him to the extent that he directs their activities in a purposeful and effective way, and they want to follow him.

53. Gladden states that leadership is the first problem encountered in every organisation and one of the functions of a leader is to provide inspiration and to be concerned about morale. Leadership is more than giving orders, it is also enthusiasm.⁶⁹ Lewin, Lippit and White, in a set of controlled experiments with children's groups in which the groups, in rotation, were given leadership described as laissez-faire, autocratic and democratic, found that hostility and aggression were more frequent in the autocratic as in the democratic group.⁷⁰ Likert states that the most successful managers in American industry and government display, on the average, a different pattern of leadership to that of their less successful colleagues and that there are better inter-personal relations and attitudes towards the work and the organisation. This effect was achieved by harnessing effectively all the major motivational forces which could exert significant influence in the organisation and which, potentially, could be accompanied by co-operative and favourable attitudes. The organisations studied consisted of tightly-knit, effectively-functioning social systems, and measurements of organisational performance were used primarily for self-guidance rather than for superimposed control.⁷¹

54. According to Nigro and Nigro complaints about leadership often refer to a lack of action or to leading in the wrong direction. The essence of leadership is influencing the actions of others; the essential quality of the leader is that he persuades others to help him to get done what he is convinced must be done. Where no effort is made to influence

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the thoughts and actions of others, there is a default of leadership. The use of close supervision leadership could give short-term increased operating efficiency but in the long run efficiency would notably decline. The whole point, however, is that the manager should use the leadership pattern called for by the particular situation.⁷² Pigors and Myers point out that managerial leadership is affected by situational variables and personal attributes but it determines organisational effectiveness. Managers also need to recognise that the nature of the technology of the organisation will affect leadership styles.⁷³ Also of relevance to the question of leadership is that of human motivation. In this regard, McGregor's Theory X postulates that people have an inherent dislike of work; will avoid it if they can; and consequently they have to be coerced, controlled, directed or threatened with punishment in order to get them to put forth adequate effort towards the achievement of organisational objectives, and most people prefer it that way. McGregor states that assumptions about human motivation are at the core of theories about the management of human resources. As far as motivation is concerned, man is a wanting animal and as soon as one need is satisfied another appears in its place. Man in effect has a hierarchy of needs. A satisfied need is not a motivation of behaviour, a fact which is unrecognised in Theory X and is thus ignored in the conventional approach to the management of people. When physiological needs are reasonably satisfied, higher level needs begin to dominate man and to motivate him. These social needs are often feared by management as being a possible threat to organisation objectives, resulting in behaviour tending to thwart those objectives. The greatest needs of man are the egoistic needs: needs relating to self-respect, self-confidence, autonomy, achievement, competence, knowledge and reputation, i.e., for status, for recognition, for appreciation and for the deserved respect of one's fellows.⁷⁴

55. McGregor's Theory Y is based on the view that the physical and mental effort in work is as natural as play or rest: that external control and the threat of punishment are not the only means for bringing about effort towards organisational objectives; that man will exercise self-direction and self-control in the service of objectives to which he is committed; that commitment to objectives is a function of the rewards

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associated with their achievement; that the average human being learns, under proper conditions, not only to accept but to seek responsibility; that the capacity to exercise a relatively high degree of imagination, ingenuity and creativity in the solution of organisational problems is widely, not narrowly, distributed in the population; and that under the conditions of modern industrial life, the intellectual potentialities of the average human being are only partially utilised.⁷⁵ McGregor goes on to state that the assumptions of Theory Y point to the fact that the limits on human collaboration in the organisational setting are not limits of human nature but of management's ingenuity in discovering how to realise the potential represented by its human resources. Theory X provides an easy rationalisation but Theory Y places the problem squarely in the lap of management. The central principle of Theory X is direction and control through the exercise of authority: the central principle of Theory Y is that of integration, of the creation of such conditions that the members of the organisation can achieve their own goals best by directing their efforts to the success of the enterprise. The principle of integration demands that both the organisation's and the individual's needs be recognised based on the assumption that unless integration is achieved the organisation will suffer.⁷⁶

56. Maslow postulates that people satisfy their needs in an ascending order, starting with physiological needs, leading consecutively into security, social needs, recognition needs, and finally into self-actualisation.⁷⁷ Maslow describes self-actualising people as people who are, without exception, involved in a cause outside their own skin and the process of self-actualisation commences with full concentration and total absorption and then goes on to a choice for growth, honesty and responsibility, using one's intelligence even if it means an arduous and demanding period of preparation, and finally self-examination in order to get rid of repression.⁷⁸ Herzberg states that five factors stand out as strong determiners of job satisfaction, viz: achievement, recognition, the work itself, responsibility and advancement, with the last three being of greater importance for lasting changes of attitudes. The major dissatisfiers were found to be company policy and administration, supervision, salary, inter-personal

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relations and working conditions. The satisfiers describe man's relation to what he does while the dissatisfiers essentially describe the environment, to which man is constantly trying to adjust. The effectiveness of management development is attuned to its congruence with the organisation's atmosphere as it is manifested in the superior's beliefs and behaviour. The superior who is a hygiene seeker, i.e., a seeker after the dissatisfiers, cannot but have an adverse effect on management development which is aimed at the personal growth and actualisation of subordinates. One of the most important functions of a manager is the development of future managers.⁷⁹

57. Taking the tentative conclusions of paragraph 52 supra, viz., that the nature of leadership depends on the nature of the society or organisation and that the function of a leader is to supply the dynamism, direction and to some extent, knowledge, which the organisation requires in such a way that people want to follow him, it will be seen from paragraphs 53 to 56 supra that leadership is also concerned with inspiration and enthusiasm rather than authority as well as with the style of the leader. The more autocratic the leader the greater the degree of hostility and the greater the likelihood of aggression between the members of the organisation. It also seems true that motivational forces in the organisation are allied to the personality of the manager and the way he inter-acts with the other members of the organisation, with the result that motivation, freedom and efficiency are likely to be lost where close and autocratic leadership is in evidence. Another important facet of leadership is that it is influence over the members of the organisation. The nature of the technology of the organisation and the situations created thereby affect leadership and its effectiveness in meeting organisational goals. The style of management is also important because of its effect on the motivations of the members of the organisation and here reference needs to be made to the nature of the human being since man seeks to ascend through a hierarchy of needs to achieve self-actualisation, the highest peak of human nature. Finally, it is essential for a leader to recognise that not all people need to be driven and that consequently a leader should take account of the needs of human nature by emphasising the factors that build motivation.

58. Having sketched out what are considered to be the essence of leadership, it is not considered possible to draw up a "job specification" for a particular type of leader for any particular organisation. The reason is that such a specification would be fatally flawed through not being related to a particular personality. Acknowledging this restraint, it is suggested that the administrative leader of the Metro Council needs the necessary knowledge and skills of an administrator in order to fulfil his task and also, in his capacity as leader, a perceptive, responsive and sympathetic attitude to and concern for, the society he serves and the members of the organisation so as to bring the organisation to a common and willing effort to help the society it serves.

GENERAL CONCLUSIONS ON ORGANISATION THEORY

59. Paragraphs 1 to 58 supra represent the exploration of certain aspects of organisation theory in order to derive some benefit for the organisational model for the Metro Council. First of all, it can be concluded that the municipal organisation is by its nature bureaucratic in the Weberian sense, i.e., hierarchical in structure, rational and specialised but on the other hand, an organisation in its totality is a society and like any other form of society it can be arranged to function in many different ways. However, the actual internal arrangements as to how an organisation will function must depend on the services it is required to deliver or supply to its clients. When an organisation, viewed as a society, ignores its clientele it will lose its purpose and consequently the justification for its existence. Mechanistic organisations can be described as being founded on an authoritarian basis in which the man is made for the organisation and not the organisation for man. Organic organisation is the opposite. In examining the internal organisation of local authorities it must be recognised that organisational structure is to some extent influenced by councillor systems of operation and by the prescriptions of higher tiers of government. Where the multiple committee system is used it leads to departmentalism and this in turn hampers effective co-ordination.

60. The concepts of line and staff and specialists and generalists do not in themselves materially contribute to organisational effectiveness and may even impede effectiveness if over-emphasised. Every organisation needs lines of authority, specialist advice and the people that go with these needs but labelling people in respect of functions that have become areas of academic dispute can lead to bad relations. For the same broad reasons as given in paragraphs 41-42 supra, the policy and administration dichotomy can be dismissed as no longer being of any relevance. When it comes to organisation building the structuring of work flows should proceed on the basis of the nature and flow of the work, co-ordinative and controlling needs, as well as the supervisory needs of the work. Artificial notions of span of control should thus be ignored. Finally, the personal attributes of leadership cannot be prescribed in the structure and functioning of the organisation. On the contrary the structure and functioning of the organisation will depend on the leadership given. Good leadership is likely to promote a co-operative team effort.

THE CONSTITUTIONAL MODEL AND PERSONNEL ISSUES.

61. Sections 59 to 72 of the draft ordinance given in Appendix Four deal with personnel matters and these are discussed below:

Categories of Personnel

62. Sections 59 and 60 compel the Metro Council to employ a Town Clerk who shall be its chief executive and administrative officer, as well as heads of the various departments. In addition, the Metro Council may employ such other staff as may be required. The reason for this approach, i.e., not prescribing personnel requirements in legislation except for the Town Clerk and heads of departments, is to leave the maximum freedom to the Metro Council to regulate its personnel affairs. The functions of the Town Clerk are discussed in paragraphs 66-67 and 98-102 supra.

Compensation/.....

Compensation

63. The Metro Council will in terms of section 62 have full power to fix salaries, wages and allowances except that the Town Clerk, who is the chief executive, shall be paid more than any other employee of the Council. This completely removes the controls on remuneration at present exercised by the higher tiers of government.

Service Commission

64. Sections 68 and 69 deal with the establishment of a service commission for the Metro Council for the purpose of undertaking the recruitment and selection of personnel not only for the Metro Council but also by agreement for any municipal council. In all other respects the fixing of powers, duties and functions for the service commission shall vest in the Metro Council which, as the employer, should have this power. At present the City of Cape Town has a service commission established in terms of Ordinance 24 of 1965. The reason for this goes back to the Slater One Committee, which found at the time that the staff administration of the City Council was most unsatisfactory and the cause of resentment and unhappiness among employees. The Slater One Report recommended a service commission with plenary powers, the members of which would be appointed by the Administrator.⁸⁰ The Cape Town Municipal Service Commission originally consisted of three members appointed by the Administrator of the Cape for a period of four years but now consists of five members appointed by the Administrator, with the Cape Town City Council and its two trade unions all having the right to submit nominees for appointment. The chairman of the Commission was part-time but is now a full-time employee of the Council, whose services can only be terminated by the Administrator. Should there be a dispute between the Commission and the Council on any appointment, promotion, dismissal or punishment of an employee, except the town clerk or a departmental head, the Administrator is the arbitrator.⁸¹ This system is unhealthy and undemocratic. Unhealthy because it in effect allows the Provincial authorities to politicise the Cape Town Municipal Service, to give secret orders on the recruitment of staff to the commissioners and to destroy the governing power of the City Council. It is undemocratic because the whole issue of accountability is blurred and distorted through the City Council's losing its normal rights as an employer.

Surplus Personnel and their compensation

65. With the abolition of the Divisional Council of the Cape and the re-adjustment of municipal functions, it is possible that the services of some employees will no longer be required. As a result, section 71 establishes a Compensation Fund, the income of which will consist of a once-only payment of the proceeds of an extraordinary rate with the balance to come from Provincial sources. In order to determine how many posts will not be required, section 70(2) provides for an organisation and methods team to undertake an investigation in collaboration with the heads of departments. Where an employee is found to be redundant and he has less than ten years' service he will receive a cash payment in terms of section 71(3) and where he has had ten or more years' service but is not a member of a pension fund, he will also receive a pension, in terms of section 71(4). The management of the fund will be jointly vested in the representatives of employers and employees.

The Functions of the Metro Town Clerk

66. The Powers, duties and functions of the Metro Town Clerk are set out in section 61 of the draft ordinance. In essence, these are to ensure that Council and committee decisions are carried out, to act as an information link between the internal organs of the Council, to be the co-ordinator and manager of the Council's service, to undertake the selection of priorities for the budget, to undertake forward planning, to be the leader of the service, to act as adviser to the Council and its organs, and to report on his activities.⁸² Headrick states that if the town clerk is to fulfil the role of chief administrator, the major requirements are that he be responsible to the council for administrative organisation and efficiency and that he also compiles and submits a consistent plan of development for the town as a whole. This means firstly: that he must have control of personnel and have the power to enquire into the organisational efficiency of any department; secondly, that he should supervise the preparation of the budget and have a general oversight of the financial condition of the local authority; thirdly, he should be responsible for taking an overall view of the development of the town. All reports should be approved, and if necessary, commented on by him, and he should

take/.....

take a leading role in the preparation of the town's development plan.⁸³ The Bains Committee described the role of the town clerk as being in terms of obtaining the respect and esteem of his colleagues and for him to function as the leader of a team and co-ordinator of activities, as well as being the council's principal adviser on matters of general policy.⁸⁴ Stewart rightly criticises this approach as clouding the sharp definition of the job with the soft language of consensus. In his view, the chief executive post will either evolve towards a position of more clearly defined authority, working to achieve consensus but not depending on it, or it will regress to the role of traditional clerk.⁸⁵ Craythorne suggests that the kind of Town Clerk who is needed in local government is an administrator with strong creative drives towards shaping the municipal machine at all levels, into an effective and goal-orientated bureaucracy, responding to the needs of the society in which it exists, and which it serves.^{85A}

The conditions of operation for the Town Clerk

67. Section 63 prohibits the Town Clerk from being a head of a department while section 64 subordinates the heads of departments to the authority of the Town Clerk and prohibits their submitting reports which have not been seen by him. If necessary, he may endorse his views on their reports. The reasons for this are clear: the Town Clerk cannot be in the position of an overall manager if subordinate members of the organisation can by-pass him or challenge his authority. If the Town Clerk is a good and effective leader he may probably never have to use his authority but it is always considered desirable to make the formal lines of authority clear when establishing an organisation. Section 65 permits the Town Clerk and the heads of departments to operate through others and also requires them to delegate to employees under their control. Section 67 prohibits the Town Clerk from working a probationary period and also affords him a chance to make a proper defence should any arbitrary form of disciplinary action be taken against him. There might be an element of risk in not requiring the Town Clerk to serve a probationary period, but if he has to, he might be unduly concerned about his future at a time when he needs to act decisively. As far as disciplinary action is concerned, there is evidence that local authorities have taken arbitrary action against their

town/.....

town clerks.⁸⁶ Finally, section 63 also provides that despite the prohibition on the Town Clerk being a head of a department he may control certain functions to enable him to fulfil his overall functions. These "control" functions are organisation and methods, forward and corporate planning, project public co-ordination, personnel administration, budgeting, research and information, monitoring and review, civil defence and security as described more fully later on. The latter two could be located in a general services department as long as they report to the Town Clerk.

SALARY LEVELS

68. Pertinent to the questions dealt with in this and the preceding Chapters is the control exercised over the salaries of town clerks because such controls effectively control all salaries in municipal organisations. The Marais Commission referred to the fact that it was undesirable that trade unions consisting of employees, using the provisions of the former Industrial Conciliation Act, 36 of 1937, should have any say in the appointment of chief officials, something which could lead to resistance to the appointment of outsiders and possible bad relations. Accordingly the Commission recommended that the post of chief executive should be specifically excluded from the provisions of the Act. To avoid anomalies and imbalances the Commission expressed itself in favour of a special arbitration court to operate on a national basis to standardise salaries, and to lower them where they exceeded the ruling economic norm.⁸⁷

69. The result was that the Industrial Conciliation Act, 28 of 1956, provided that an employee of a local authority who is designated by that local authority as chief administrative officer shall not be an employee within the meaning of the Act. Where there is a dispute concerning the remuneration of a departmental head or the local authority has changed the remuneration of a departmental head, the Administrator may, if he is of the opinion that the dispute or change could affect the remuneration applicable to the departmental heads of any other local authority in the Province, report to the Minister that it is desirable for the dispute to be settled by arbitration. The Minister, if he

considers/...

considers it expedient and believes it would be in the interest of local government that the dispute or change be referred to arbitration, may require that the dispute or change be referred to arbitration by the tribunal.⁸⁸

70. The relevant Cape Ordinances, Nos. 20 of 1974 and 18 of 1976, complement these provisions by providing that the term departmental head shall have the meaning assigned to it by Act 28 of 1956 and also that no council shall increase the emoluments and allowances attached to the office of town clerk or secretary at any amount in excess of an amount of R3 500 per annum, or decrease the town clerk's emoluments and allowances without the consent of the Administrator. Furthermore, every council shall advise the Provincial Secretary whenever a dispute concerning the remuneration of a departmental head has arisen or whenever it changes the remuneration attached to the post of departmental head.

71. These controls are resented by local government as an intrusion into its autonomy. The Government's attitudes in this matter can partly be excused on the grounds of ignorance of the nature of local government, but what cannot be excused is the heavy-handed and authoritarian attitudes adopted, perhaps deliberately. The essence of the Government's stated arguments for the controls it exercises are that: the town clerk is more akin to an employer than an employee; that the controls were never intended to operate to the detriment of town clerks; that local authorities find themselves in an untenable position when opposed by their town clerks on council-staff relationships; and that interference in labour relations by provincial administrations could not be stamped as undesirable as a measure of control was part of their functions and it was not the intention of the provincial administrations to interfere "unnecessarily" in the domestic affairs of local authorities.⁸⁹

72. That these controls have resulted in injustices has been testified to by the South African Association of Municipal Employees (Non-Political) in the sense of arbitrary dismissals without a hearing or any opportunity of making a defence.⁹⁰ The manner in which the salaries of town clerks and departmental heads in the Cape are fixed generally seems

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to be to follow the prescriptions of the Industrial Council for Local Government Undertakings in the Province of Transvaal.⁹¹ This seems to indicate two trends, the first being that the Administrator of the Cape, either voluntarily or under compulsion, has surrendered his powers to a body in the Transvaal, and secondly, that salary setting seems to be extraordinarily arbitrary. Transvaal conditions do not necessarily apply to the Cape.

73. Whatever the reasons for the Government's attitude, and it is almost certain that not all the reasons have been made public, what are the consequences of these policies? The first consequence, it is submitted, is to rob local authorities of the wholehearted and effective loyalty of their town clerks and departmental heads. Senior officials have many dealings with provincial and Government departments and it is asking too much of human nature for some of them not to be aware that the man who authorises the amount that goes into the pay cheque is of far more importance than the man who signs the cheque. In other words, the present system can only result in divided loyalties, and this division cannot benefit local government. Another highly undesirable consequence is that when salary levels are artificially depressed they have the effect of inhibiting recruitment into local government but those who do the depressing do not take any responsibility for the consequences of their actions: they are in a position of authority without being accountable. A final consequence is the effect on morale: When the general body of officialdom sees its leaders appear as playthings, squeezed between forces which affect their powers and status, linked with increasing central government interference and, often, the dysfunctions created by the multiple committee system, there must be a serious effect on morale, apart from the reduced earning capacity already referred to. The Central Government is clearly anxious that local government will solve some of its political problems: that expectation will remain a pious hope unless the Central Government allows local government more independence as employers.

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THE ORGANISATIONAL MODEL

74. Like the constitutional model, the organisational model will be discussed in relation to different aspects.

The Essential Elements of the Organisation

75. The preceding examination of organisation theory has indicated the need for a mixed approach to the organisation structure of the Metro Council, with structure related to functional level. The essential elements can be described as follows:

- 75.1 a chief executive, supported by a management services division;
- 75.2 heads of departments who, while they are responsible for the management of their departments, also act with the chief executive in a corporate capacity through the committee of heads of departments;
- 75.3 a range of departments subdivided into functional branches rendering a direct service to the public and which are classified as line departments, and staffing departments which mainly render an internal service; and
- 75.4 regional co-ordinators.

76. Figures Seven and Eight illustrate schemetically what is being aimed at.

Figure/...

FIGURE SEVEN

A NORMATIVE SKETCH OF THE
PROPOSED DIVISION OF LOCAL
GOVERNMENT FUNCTIONS IN
GREATER CAPE TOWN

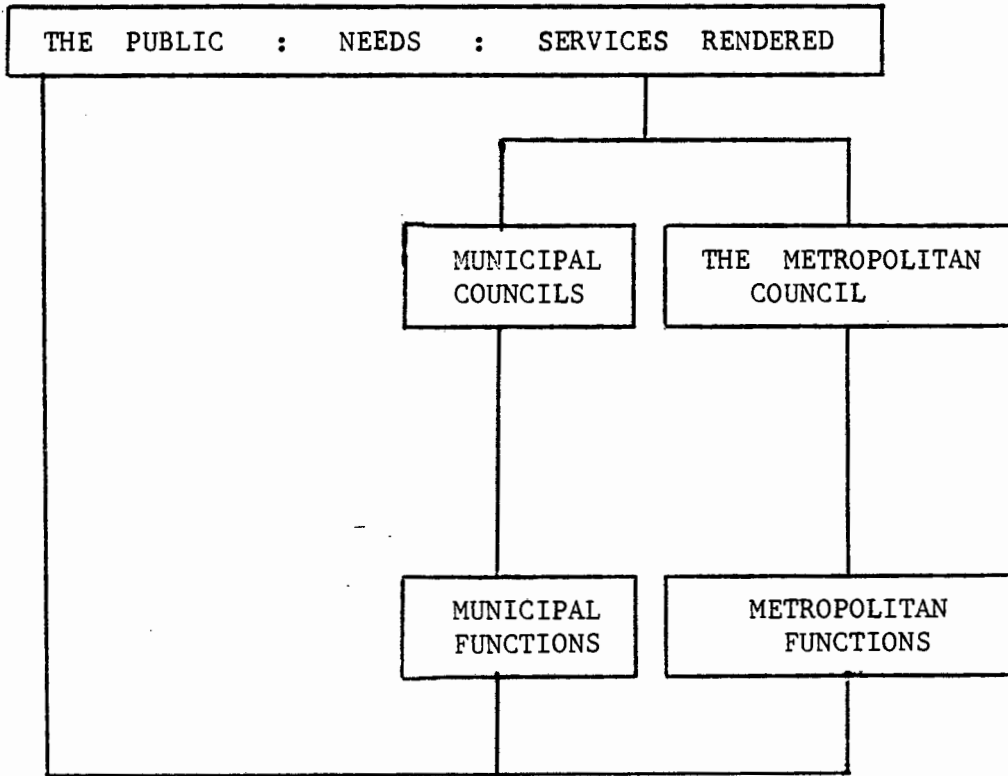
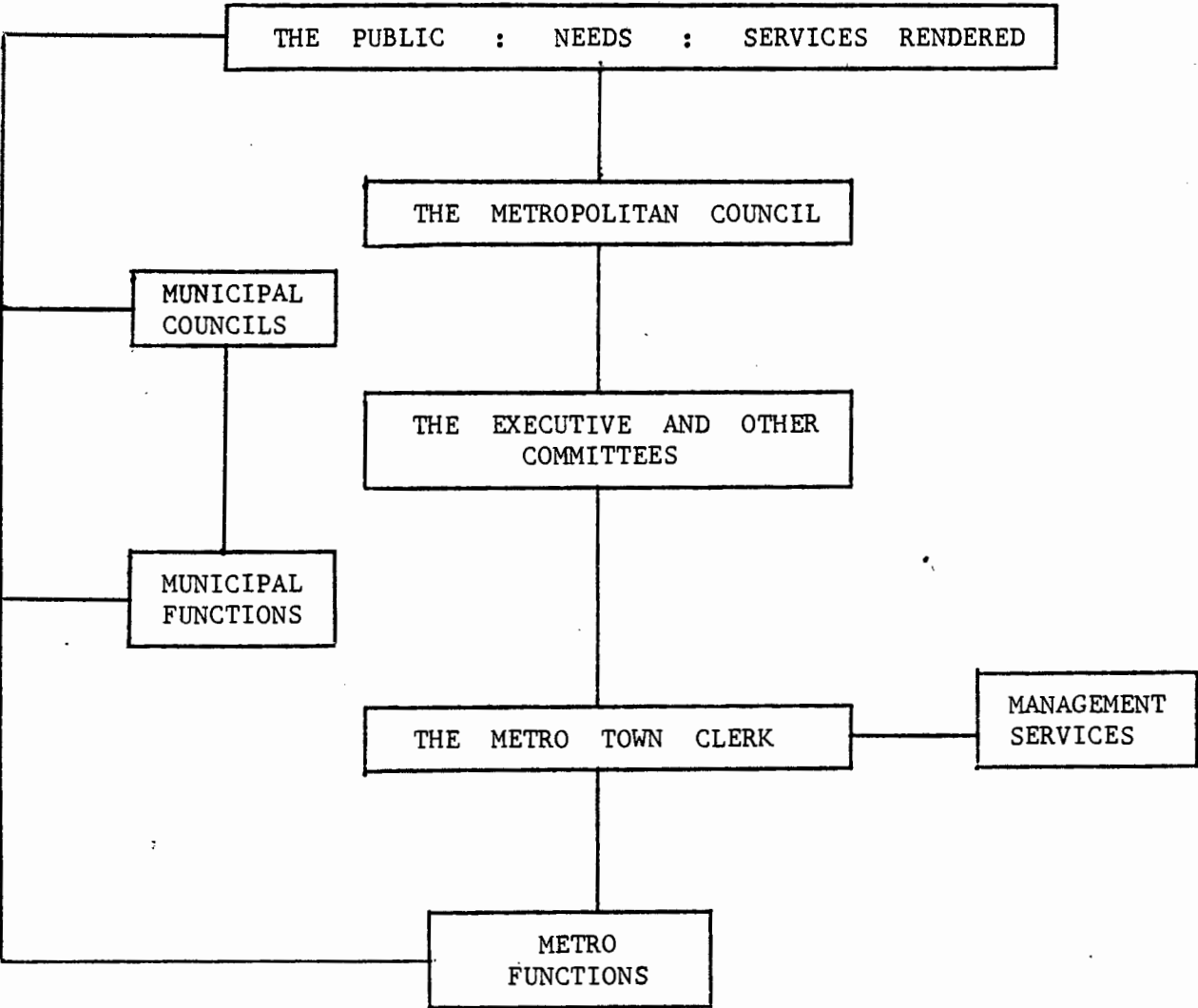


FIGURE EIGHT: THE ORGANISATION OF THE METRO COUNCIL



THE LINE DEPARTMENTS

Engineering

77. Engineering services mean the provision and maintenance of roads, water, sewerage, refuse collection and forestry services. These can be called direct services and would need to be supported by mechanical engineering, building, quantity survey, scientific services, the latter existing to measure pollutants and contaminants. The suggested title of the head of this department is the Metropolitan Engineer.

Physical Planning

78. Physical planning connotes allocating land uses but it is also related to public safety and to the preservation, where necessary of the urban environment, and is in any case related to the improvement of the environment. The services rendered by this Department would tend to be both direct and indirect. The suggested services are: town planning, land survey and the strengthening of building control by laying down uniform standards for the municipal councils. The suggested title of the head of this Department is Metropolitan Planner, bearing in mind that in terms of section 13(h) of Appendix Four he is also responsible for the physical planning of the hinterland. Cox states that town planning is an essential element in the management of a complex and changing urban society, concerned with monitoring and co-ordinating changes in land use in and around cities, and forming part also of the weaponry of social reform.⁹² The Diemont Commission felt that it was incongruous to melt together the civil engineering and planning functions,⁹³ and the author agrees.

Electricity

79. The generation and distribution of electricity, it is submitted, can best be handled by one authority and hence the Electricity Supply Commission should surrender the detailed services it is providing in parts of the metropolitan area and confine itself to delivering power in bulk to the Metro Council. However, the supply and distribution of electricity is only one aspect of power. New methods of creating power are constantly being evolved and this department should be following this

research/....

research and evaluating new methods so as to benefit particularly the poorer section of the community. The suggested title for the head of this Department is the Metropolitan Electrical Engineer.

Housing Development

80. Housing is a specialised field⁹⁴ and the suggested Department of Housing would contain administrative and technical personnel, not for the purpose of duplicating the services of other departments, whose services should be used, but for the purpose of identifying housing needs, carrying out research into those needs, examining alternative solutions and making recommendations thereon, and in general, promoting housing and community development as primary social needs. This last function is considered of vital importance: it is increasingly being conceded that merely providing houses for people does not build a community as this approach neglects the upliftment of the community thereby hampering its ability to participate in governmental processes. The United Nations have defined community development in the following terms:

"To connote the processes by which the people themselves are united with those of governmental authorities to improve the economic, social and cultural conditions of communities, to integrate these communities into the life of the nation, and to enable them to contribute fully to national progress. This complex of processes is then made up of two essential elements: the participation of the people themselves in efforts to improve their level of living with as much reliance as possible on their own initiative; and the provision of technical and other services in ways which encourage initiative, self-help and mutual help and make these more effective. It is expressed in programmes designed to achieve a wide variety of specific improvements."⁹⁵

81. The City of Cape Town already operates a community development service in its City Health Department and it describes what it does as community organisation and participation with the object of promoting

social/....

social and cultural upliftment by the mobilisation of all community resources to meet the needs of urbanisation.⁹⁶ It is considered that the approach to this function is correct but that it is better placed under housing development. The suggested title for the head of this Department is Metropolitan Director of Housing.

Health Services

82. The Health Act, 63 of 1977, provides that local authorities are or may be required to render services for the prevention of communicable diseases, including immunisation and the promotion of the health of persons, including health education, genetic counselling, nutritional education and mother and child care. In addition the State may delegate functions to a local authority, or as is at present the case, require local authorities to perform State or Provincial functions on an agency basis, e.g., family planning or ambulance services.^{96A} Local authorities also have responsibilities in respect of preventing the pollution of the atmosphere.⁹⁷

83. The organisation of the Health Department of the Cape Town City Council is as follows:-

- 83.1 there is a Medical Officer of Health, two Deputy Medical Officers of Health, and one Assistant Medical Officer of Health;
- 83.2 there is an Administrative Branch which provides the necessary administrative services;
- 83.3 there is a Community Health Care Branch which functions to deal with family planning, cancer prevention, maternity services, child health care, immunisation, domiciliary visiting, geriatric services, health education, community liaison and sexually transmitted diseases;
- 83.4 there is a Community Development Branch the functions of which have been described in paragraph 81 supra;

83.5/...

83.5 there is an Environmental Health Branch which functions to deal with air pollution, water supplies, milk control, food control, control on trading, housing, sewerage, surface sanitation and pest control;

83.6 there is also the City Hospital for Infectious Diseases which treats communicable diseases.⁹⁸

84. The Health Department of the Divisional Council of the Cape is organised along the following lines and provides health services to eight municipalities as well as in its own area:-

84.1 there is a Medical Officer of Health, a Deputy Medical Officer of Health and two Assistant Medical Officers of Health;

84.2 there is an Administrative Branch to provide the necessary administrative services;

84.3 there is an Environmental Health Branch which deals with smoke control, offensive trades, solid and liquid wastes disposal, animals, water supply, food hygiene and building plans and housing;

84.4 there is a Community Health Branch which deals with clinic and nursing services, tuberculosis, family planning, child care, venereal diseases, home visits, health education and immunisation.⁹⁹

85. Except for slight nomenclatural and organisational differences the two Health Departments operate along similar lines and little difficulty should be experienced in amalgamating them and also including abattoirs and markets as part of their functions. If a Town Clerk's department of miscellaneous services is to be avoided then services such as markets and abattoirs have to be assigned to other departments. Abattoirs clearly have strong health connotations and markets could be regarded in a similar light. However, if markets are considered to be primarily a financial function then they could be placed under the treasurer.

Forestry/.....

Forestry and Recreation

86. Many of the area municipal councils may find it burdensome and expensive to provide, operate and maintain recreational and amenity facilities which are used by all the inhabitants of the region. Accordingly, such facilities as the various nature reserves making up the Table Mountain and South Peninsula Mountain Chain, Zandvlei, Zeekoevlei, Princess Vlei, the beach resorts at Muizenberg, Strandfontein, Sea Point, Soetwater and Silverstroomstrand, all other beaches unless a municipal council specifically asks to retain control, sports stadia such as the Green Point and Athlone Stadia, botanical gardens, large sports complexes and buildings such as the Good Hope Centre, are proposed to transfer to a Department of Forestry and Recreation under the Metro Council. The suggested title for the head of this Department is Director of Forestry and Recreation.

Protective Services

87. It is logical to group ambulance, traffic, fire, civil defence and the like, all of which are protective in nature, under one heading. Such a move accords with the idea of specialisation. The suggested title of the head of this Department is Director of Protective Services.

88. The institution of civil defence is a statutory requirement in terms of Ordinance 8 of 1977; the functioning of a fire service is to some extent regulated by Ordinance 14 of 1978; and the training, qualifications and functions of traffic personnel are regulated by Ordinance 21 of 1966. Except for security, which is connected with the preservation of property and the prevention of losses, all these services are community-orientated and can be described as primary essential community services.

89. Law enforcement is a special case. As shown in Chapter Three crime is a serious problem and the Police are not adequately staffed to cope with it. Any meaningful political and social reforms and changes, it is submitted, will not have any lasting value if a substantial number of the population are forced to live under a reign of terror imposed by organised crime. The City of Cape Town appointed a special

committee/.....

committee on municipal law enforcement and crime prevention in Cape Town, and this committee stated that the Police manpower shortage was visible in central Cape Town. Crime in the coloured townships was escalating and the cause of this was perceived to be socio-economic in origin, with the crimes themselves being related to vandalism, violence and the profit motive. The committee came to the conclusion that crime in Cape Town had escalated to the stage where normal peaceful pursuits were becoming impeded and it recommended that the City Council's various law enforcement agencies be consolidated into three subdivisions, a traffic patrol, a general patrol to patrol beaches, open space and streets in order to promote crime prevention, as well as a security patrol. The general patrol would have a twenty-five man mobile strike force. The committee recommended that the estimated additional costs of R1 100 000 be recovered by way of Government subsidy as policing was a Central Government function, and that the Minister of Justice be requested to confer normal police powers on the civic or general patrol.¹⁰⁰ This formulation and approach, it is considered, should be followed by the Metro Council.

STAFFING DEPARTMENTS

Administration

90. If the Town Clerk is not to have a Department then the services formerly rendered by his Department must be collected into one department for the continued rendering of administrative services, or be allocated to other departments. The suggested composition of this service Department is: secretarial services to the Metro Council and its organs, legal services, trade licensing, the compilation and maintenance of voters' rolls, central records, property management and regional co-ordination.

91. Property management is an administrative service for the whole organisation which, because of its legal nature, fits best into the Department of Administration. Trade licensing could arguably also be included in the Treasury but, again because of legal considerations, it

has/.....

has been included under administration. The maintenance of voters rolls by a Metro Council, the members of which are not elected, may seem strange but it is suggested in order to achieve economies of scale and if the Central Government should decide at some future time to delegate the making of Parliamentary voters' rolls and the registration of births, marriages and deaths to local government, then the step is logical.

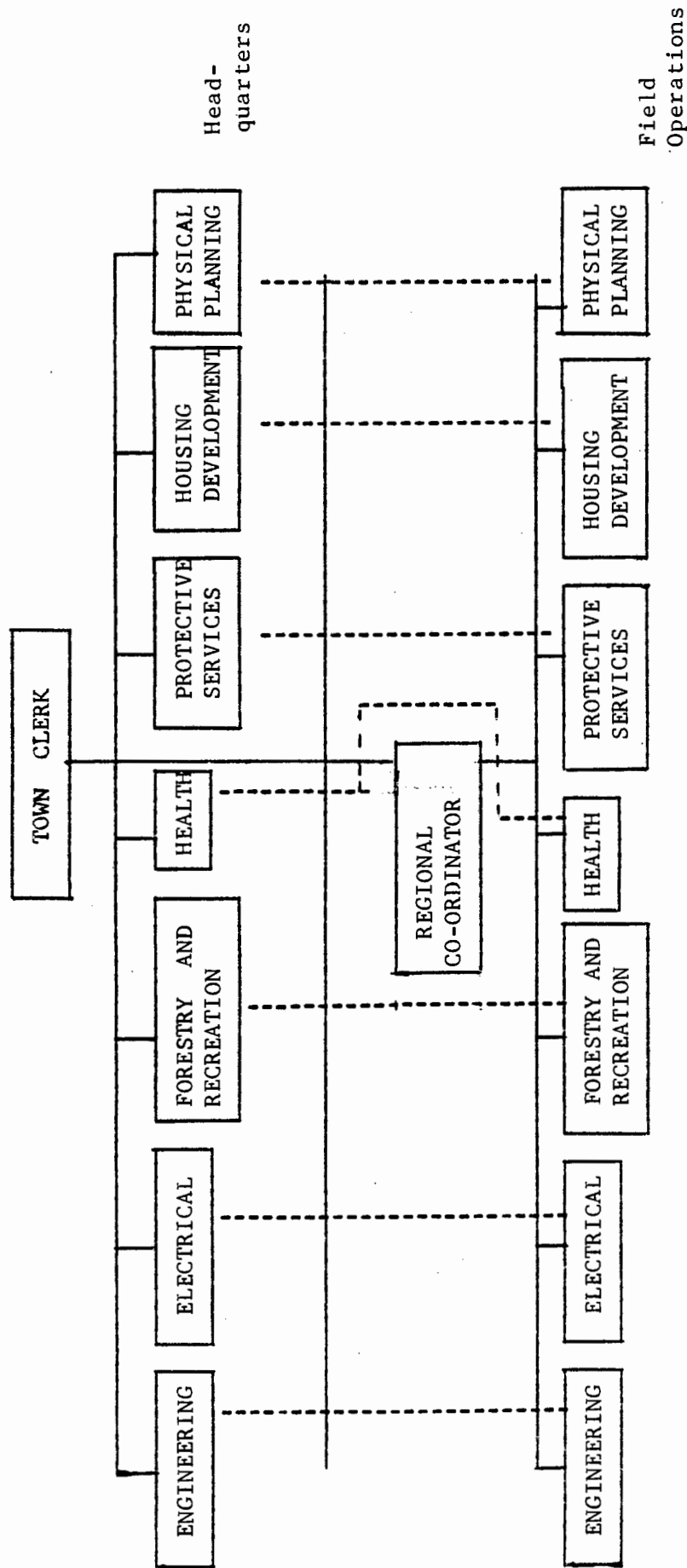
92. The function of regional co-ordination is new to the metropolitan area. The metropolitan area will be large, covering not only the existing municipal areas and the existing area of the Divisional Council of the Cape but also a portion of the Division of Stellenbosch--see section 2 of Appendix Four. This means that services will be rendered over a wide area and communication problems will occur if communication lines are extended too far. Excessive delays and a lack of co-ordination will adversely affect effectiveness.

93. The proposed solution is the institution of a system of Regional Co-ordinators. As a first step, the Metro Town Clerk will initiate an investigation to divide the Metro area into zones which need not be equal in size but rather equal in work-load and a Regional Co-ordinator will be appointed for each zone. The Regional Co-ordinators will ensure that the various services operate effectively in the field, and will co-ordinate their activities so as to harmonise services with the goals, objectives and policies of the Metro Council. On the other hand, Regional Co-ordinators may not interfere with technical functions but if they have reason to believe that there is any fault or error in the carrying out of a technical function they will be obliged to report that fault or error to the Metro Town Clerk.

94. Each Regional Co-ordinator will have to be given whatever delegated powers he may require commensurate with the needs of his zone and each will also have the function of liaison with the municipalities within his zone. In order to enable the command structure to monitor progress, each Regional Co-ordinator shall submit monthly reports to the Metro Town Clerk and all heads of departments.

Fig./.....

FIGURE NINE: THE SYSTEM OF REGIONAL CO-ORDINATORS



An unbroken line depicts the line of administrative co-ordination.

A broken line depicts the direct line which field operations may take in order to obtain professional or technical advice.

Note: The system of Regional Co-ordinators is not intended to abolish the line authority of the head of department.

95. The suggested title for the head of this Department is Metropolitan Administrator and he should also function as the Deputy Town Clerk.

Treasury Services

96. Taking the Cape Town City Council as a typical example of a large local authority, a treasury department requires to be organised into the elements of finance, housing, administration, revenue, audit and data processing.¹⁰¹ Cowden states that the role of the municipal treasurer is to act as financial advisor, accountant, internal auditor and treasurer of the funds. This involves advising and reporting to the council on financial organisation, maintaining a centralised accounting system, maintaining an internal audit to discover any irregularities, controlling payments to ensure that they are made with authority, ensuring that all income is properly collected, compiling the annual budget, managing all the council's funds, and dealing with miscellaneous matters such as the registration of stocks, stores, insurance, etc.¹⁰²

97. According to Cowden the organisation of a treasurer's department is an important factor in overall financial efficiency.¹⁰³ The following is the suggested structure for the Metro Council's Treasury Department: income and expenditure control, costing, internal audit, stores control, data processing, loans and insurance and housing finance. Housing finance is provided for specially because of the great number of houses provided and to be provided in the area as well as the complex funding systems used by the Central Government. The suggested title for the head of this department is the Metropolitan Treasurer.

THE TOWN CLERK : MANAGEMENT SERVICES

98. As stated in paragraph 87 supra, the Town Clerk, while not permitted to be a head of a department, requires to control certain functions if he is to fulfil his own functions effectively. This gives rise to the need to consider the concept of management services, a term increasingly being used in municipal circles. The Maud Committee

described/....

described management services, such as organisation and methods and operational research, as being linked with techniques such as cost-benefit analysis and critical path analysis. Sifting through the relevant section it seems that the Committee's view of management services included planning, the use of the computer, organisation and methods, personnel administration, co-ordination and forward planning.¹⁰⁴ Hill refers to management aids such as computers, personnel administration, planning, operational research and other techniques.¹⁰⁵ Richards refers to modern techniques of management and includes under this heading work-study, organisation and methods, numerical analysis, cost-benefit analysis and the computer.¹⁰⁶

99. Stanyer indexes management services under specialised administrative techniques and describes these as personnel management, work study, operational research and management accountancy, i.e., economic reasoning and accountancy.¹⁰⁷ Ripley describes management services as forward planning, project co-ordination, work study and computer services, under the chief executive.¹⁰⁸ The Bains Committee, in discussing its suggested management team, was unwilling to lay down specific terms of reference but suggested that attention centre on the long-term strategic function of considering policies, and an overall management co-ordinative and progress chasing role.¹⁰⁹

100. There is clearly a considerable amount of confused thinking in local government circles about the concept management when applied to a form of democratically elected government. It is submitted that management in the private sector sense of the word is not apposite, i.e., a municipality cannot be run on identical lines to a profit-orientated organisation but this does not mean that, alongside a search for effectiveness, the municipal council should not also seek efficiency. The proposed constitutional and organisational models are based on the premise of an accountable and responsive body of indirectly elected final decision-makers who are served by a body of employees headed by a chief executive, whose function is to assist the Metro Council, to give leadership and to exercise control so that the larger objectives are responded to positively.

101./.....

101. It follows from this that the chief executive must be given certain tools, and whether those tools are labelled management services or anything else is irrelevant: all that matters is that the correct tools be chosen. The following functions are suggested as being compatible with the functions of the Town Clerk as set out in section 61 of Appendix Four:

- 101.1 a heads of departments committee, which meets at least once a month;
- 101.2 corporate planning with the object of drawing up an overall development and administrative plan in terms of short, medium and long-term objectives. The corporate planning function will begin with the chief executive and heads of departments but will extend down to branch head level. The basic approach to corporate planning should be the solving of problems and the multi-disciplinary making of draft plans for political consideration;
- 101.3 budget systems and the selection of budgeting priorities;
- 101.4 personnel administration and management;
- 101.5 organisation and methods;
- 101.6 research and information. Administration is constantly evolving and changing and continuous research should be undertaken into new systems and ideas. In addition, developments in other academic fields and in government generally, e.g., the reports of commissions of enquiry or proposed legislation, often have an effect on local government. The research obtained should be studied, analysed, commented on and the results made known to all senior personnel and councillors;
- 101.7 monitoring and review. If the chief executive is to be made generally responsible for the effectiveness and efficiency of the organisation then he must be in a position to monitor

the/.....

- the activities of the organisation and to review its activities;
- 101.8 the ombudsman should report direct to the Town Clerk;
- 101.9 the civil defence and security head should report direct to the Town Clerk although being a part of the Department of Protective Services, because the Town Clerk is responsible for these functions in his capacity of chief executive;
- 101.10 project co-ordination. Project co-ordination in local government consists essentially of providing the chief executive with strategic networks of authority activities, liaison between the council and its departments, the preparation of data and plans, co-ordination and liaison, and progress monitoring and feedback.¹¹⁰

102. The above list indicates the functions, which, if controlled by the Town Clerk, are considered to enable him to function effectively and it constitutes a logical extension of the executive committee/chief executive approach which commenced in South Africa after the Marais Commission. The proposed organisational model is illustrated in Figure Ten.

CONCLUSION

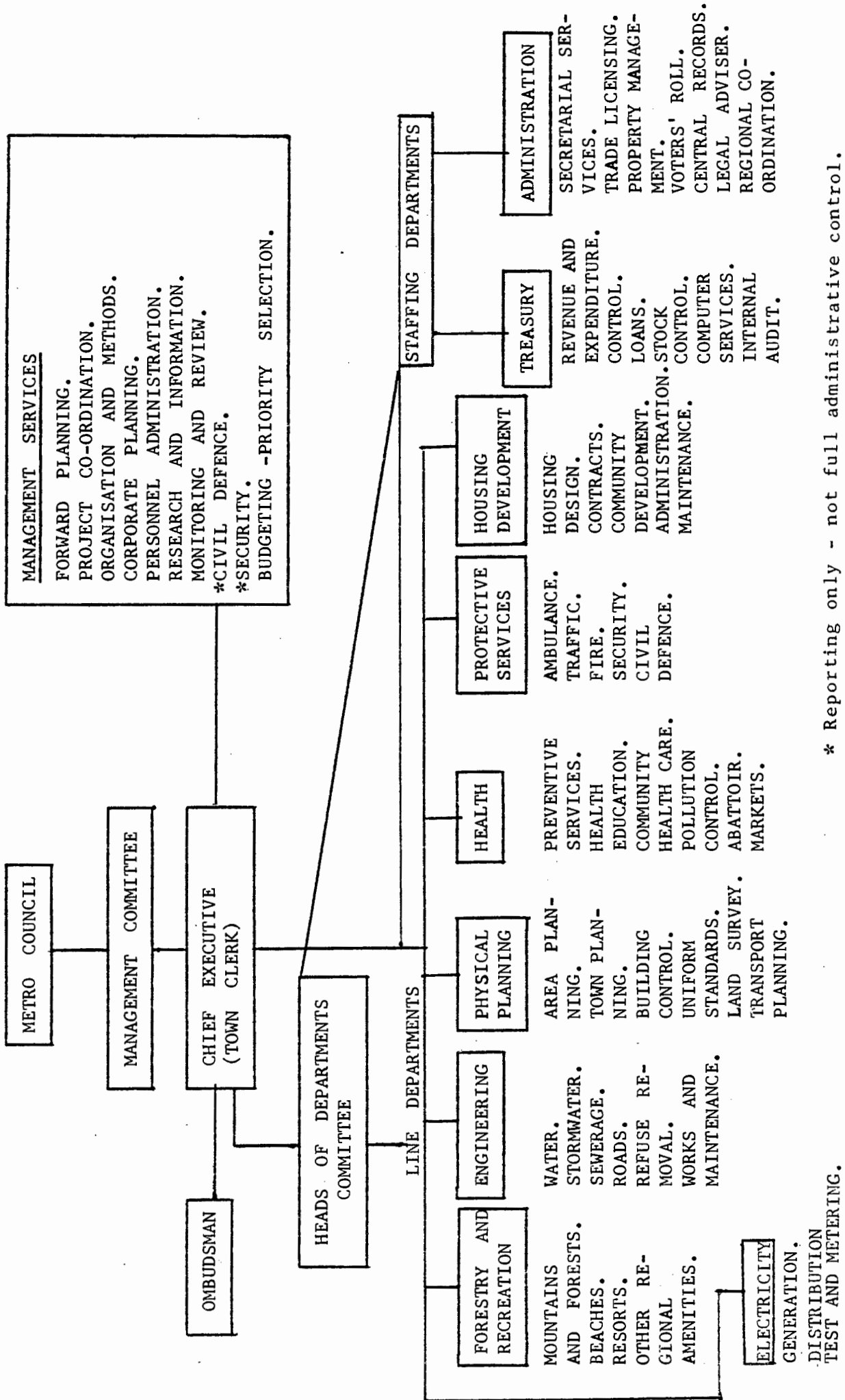
103. The City Engineer of Cape Town has expressed three criteria for the reform of local government in the metropolitan context, viz:

- 103.1 financial capacity;
- 103.2 community representation; and
- 103.3 economy and efficiency in re-organisation-

and goes on to advocate a two-tier system in which efficiency and economies in operation will result from the regional organisation of sewage treatment, bulk water supply, solid waste disposal, metropolitan planning, housing and probably also fire and traffic services, ambulance, abattoirs, markets, libraries and other civic amenities.¹¹¹ It is

suggested/.....

FIGURE TEN: THE PROPOSED ORGANISATIONAL MODEL



* Reporting only - not full administrative control.

suggested that the views of an experienced municipal engineer, and one moreover who is one of the leading public engineers in the country, is of some value. It is also suggested that the organisational model as evolved and developed in this Chapter, meets the criteria stated.

AVAILABILITY OF STAFF

104. The Cape Town City Council and other municipalities are suffering severe shortages of skilled staff,¹¹² and with the reformation of local government it is going to be necessary to admit coloured, indian and black people on an even greater scale. It is probable that the racial composition of local government employment in the metropolitan area is far more coloured than white but mainly from the artisan level and downwards. The access of coloured, indian and black people will therefore have to be correlated with the output of schools, technikons and universities. Wall states that the higher technical echelons of local government will continue to be staffed by whites for the foreseeable future.¹¹³

TRAINING

105. It follows from paragraph 104 supra that a far greater effort will have to be made to increase the promotion of training and research, and as it seems that the Government will increasingly be relying on local government as the means of introducing initial political changes, local government needs to be made as effective as possible. The recommended solution is the creation of a National Council for Local Government and attached, as Appendix Five is a draft of a Bill for such a Council. This was drafted by the author of this study, using the legislation for the creation of the Council for Scientific and Industrial Research as a model.

106./.....

106. The principal features of the Bill are as follows:

- 106.1 the establishment of a National Council for Local Government with the purpose of aiding local authorities, undertaking research for them, undertaking specialised work for them, and training local government employees;¹¹⁴
- 106.2 the Council may undertake special investigations on a paid, consultancy basis, for local authorities;¹¹⁵
- 106.3 the Council shall be financed by funds voted by Parliament, as well as by funds given by organised local government and the Provinces;¹¹⁶ and
- 106.4 the composition of the Council is such that of its nineteen members, no less than nine nor more than eleven of its members will be active in local government in one or another capacity and it will mean that local government will be able to manage the Council to its benefit and not have solutions imposed on it.¹¹⁷

107. Until research and training are properly co-ordinated, the assistance local authorities require will not get through to them: the paradox is that the decentralised nature of local government makes it necessary to have a centralised research and training body.

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CHAPTER NINE

THE MAIN RECOMMENDATIONS OF THIS STUDY

AND

THE PRESIDENT'S COUNCIL'S REPORT

THE MAIN RECOMMENDATIONS

1. The purpose of this study, as stated in the Introduction to Chapter One, was to examine the society that is Greater Cape Town and in particular its local government, with a view to recommending structural changes in local government. In the light of these objectives, the main recommendations of this study can be described as follows:

The Franchise

2. Corrections to the dysfunctions in local government and the taking of action to remedy the social and economic disadvantages of the region are likely to be hampered until the coloured and indian people are returned to the mainstream of local government. It is accordingly recommended in paragraph 35 of Chapter Two that a common municipal franchise be introduced.

The Nature of the Area

3. Chapters Three, Four and Five paint a picture of a society outwardly prosperous but which is not progressing economically at a rapid enough pace with the result that a large sector of the population is faced with economic and social disadvantages. The giving of subsidies is not considered to be a solution and tends to lead to a most undesirable form of dependence--see paragraph 44.5 of Chapter Five. It will not necessarily be the task of local government to solve all these problems but a vigorous and strongly representative local government would bring the need for solutions pertinently before higher levels of government--see paragraph 48.4.1 of Chapter Four.

The/...

The Need for Reform

4. The need for reform is not only political, i.e., related to the franchise issue, but related also to the need for structural reform. As pointed out in paragraph 24 of Chapter One, local government in the area has largely come about and grown without being planned or co-ordinated. A recommendation was made in 1966 to establish a form of metropolitan authority for Greater Cape Town but this appears to have been abandoned after objections were raised by the core city--see paragraphs 101 to 114 of Chapter Six. The recommendations of the President's Council have underlined the need for structural reform in the larger urban centres.¹

The Reformed Structure

5. After examining some overseas and South African experience the conclusion was reached at the end of Chapter Six that if notions of democracy are to be fostered, it is necessary to have a form of regional local government to deal with regional needs and services.² As a result, Chapter Seven and Appendix Four set out a constitutional model which provides for a two-tier system of area or local municipalities and a metropolitan municipality. This system does not result in overlapping or competing jurisdictions because services are carefully allocated between the two levels,³ and hence the two levels together form the total local government for the whole region. The thrust of the draft ordinance set out in Appendix Four is to reconcile communities and to strengthen local government in an open and responsible system.⁴

The Organisational Model

6. In order to achieve the purposes of the constitutional model, an organisational model is recommended in Chapter Eight.

BLACK PARTICIPATION

7. There are three black areas in Greater Cape Town, viz., Langa, Guguletu and Nyanga but the civic administration of these areas was removed from local government control and administration boards created

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instead to provide the necessary services.⁵ Community councils which do not have executive powers have been created⁶ but they will eventually give way to fully-pledged municipalities in terms of recent legislation.⁷ The problem with black areas forming part of urban centres is the Central Government's policy of creating the so-called national states as independent nations or self-governing homelands, with blacks in urban areas being made citizens of these national states. The President's Council Report states that excluding blacks from proposed local government reforms will result in the creation of problems, but goes on to support the establishment of separate black municipalities.⁸

8. The problem with drafting amending municipal legislation for Greater Cape Town is that this has to proceed by way of an ordinance passed by the Cape Provincial Council⁹ but this Council does not have the power to legislate on black local government.¹⁰ In principle, however, and once the legislative arrangements have been made there is no reason why black municipalities should not participate in the Metro Council recommended in Appendix Four.

THE REPORT OF THE PRESIDENT'S COUNCIL

9. It was stated in paragraph 2.3 of Chapter One that if the President's Council should submit a report on the future of local government before this study had been printed, the proposals would be commented on in an addendum. The President's Council has reported and the Government has stated its guidelines in relation to this report. The report is a lengthy one and in the comments which follow, reference will only be made to what are considered to be the most important provisions, and then only in a summarised form. Comment will be made under subheadings and comparisons will be made with the recommendations in this study.

10. The President's Council's Report commences with certain general or normative premises, the most important of which are that local government "is a constitutional cornerstone, it serves as an important

recruiting/.....

recruiting point in any political system, and vigorous self-governing local communities can be a great source of strength in any political order".¹¹ The Report also confirms that most coloured and indian people have rejected the management committee system. Some of the main objections to the system are the insufficiency of financial resources, the lack of any share in decision-making, the fact that the system had been introduced without consultation, and opposition to the Group Areas Act, 36 of 1966.¹² The Government's guidelines are silent on these issues but the conclusion arrived at in Chapter Two of this study was that the return of coloured and naturally also the indian people, to the mainstream of local government is an essential pre-requisite to any structural reform of local government.

Devolution and Decentralisation

11. The President's Council recommended that the policy be adopted of maximum devolution of power and the decentralisation of administration, and that the autonomy and legislative capacity of local government be recognised in any new constitutional arrangement.¹³ Reference is made to paragraphs 10--18 of Chapter Four and paragraphs 43--49 of Chapter Seven as evidence of the fact that at present local autonomy in local government is severely limited but that real reform requires a greater measure of local choice. The Government's guidelines state that the Government accepts the principle of maximum devolution of powers and the decentralisation of administration to local government, with minimal administrative control over local authorities.¹⁴ This must not be interpreted as the total lifting of controls since all governments consider a measure of control over local government to be necessary.

The Creation of Local Authorities

12. It is recommended that the creation of local authorities be based on criteria aimed essentially at ensuring that the new local authority will be able to survive and grow. The criteria are generally acceptable but the one relating to existing residential patterns, however, foreshadows that existing residential patterns, i.e., group areas,

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and culturally or community sensitive matters should be taken into account, will result in municipalities being created according to group areas.¹⁵ This excludes the negotiations envisaged in the constitutional model.¹⁶ This is confirmed by the reference in the Government's guidelines to the establishment of local authorities for the various population groups.¹⁷ It can be expected that the coloured and indian people will object to racially-based municipalities, and they will undoubtedly point to the lack of economic viability in these areas--see paragraphs 36 to 41 of Chapter Five for an analysis of the problem.

The Franchise

13. The Report recommends that the qualifications for the local government franchise should be identical for all race groups with multiple votes being allowed based either on age and the ownership or occupation of immovable property, or based wholly on the ownership or occupation of immovable property. The franchise arrangements should be embodied in the constitution and no person should be eligible to be elected as a councillor unless he qualifies to be registered as a voter.¹⁸ The Government makes no reference to the franchise in its guidelines. The idea of equal qualifications for voters and the other recommendations outlined supra, cannot be excepted to. The fact is that if municipalities are to be ethnically-based, the equality described does not really amount to much. The constitutional model recommends a franchise based on the ownership of property but does not recommend ethnic municipalities as an objective in itself although this may occur.¹⁹

Wards

14. On the issue of municipal areas being divided into wards the President's Council recommends that this be done on the basis of the ratable valuation of the property in the municipality and that there be equal representation for each ward in every local authority.²⁰ There is no statement on this in the Government's guidelines. This is probably one of the most important recommendations in the report,

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bearing in mind that elsewhere in the Report provision is made for joint decision-making. Cape municipal law at present does not lay down criteria for the division of municipal areas into wards but the usual practice has been to try and obtain an approximately equally balanced number of registered voters. This recommendation, however, if implemented will result in wards in wealthier areas being smaller, and much bigger wards in poorer areas. The buildings in coloured areas, as demonstrated in this study, are usually of a lower valuation than in white areas, and these areas will thus tend to have bigger wards. As representation will be equal for all wards it follows that whites for the foreseeable future, will be able to return more representatives than the coloureds. In the constitutional model a Delimitation Commission is established for the purpose of creating wards, and will hold public hearings and have a wide measure of discretion.²¹

The Division of Services

15. The President's Council recommends that local government functions be divided into "hard" and "soft" services. Hard services will be those usually rendered on a large scale, including fire prevention, drainage, electricity, highways, streets, water supply, town planning, abattoirs, computer services and professional staff services. Soft services are described as community sensitive or culturally-sensitive services which a community wishes to render for itself such as swimming baths, community halls, residential areas, housing, beaches, schools, pavements and suburban streets. Hard services should be rendered by a rural or urban nominated board, utility company or metropolitan authority. Representatives of municipalities to serve on these bodies would be nominated according to the ratable value of property or the utilisation of services.²² The comment on this follows in the next paragraph. The Government's guidelines, while not explicit on the point, imply that this course will be followed, and in fact endorse the idea of municipal representatives serving on metropolitan or regional joint services boards by means of nomination through some proportional or financial basis.²³

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16. The proposed division of services is clearly aimed at retaining under a form of local control which is ethnically based, those facilities where the whites would prefer not to have racial mixing. The metropolitan services stated in the constitutional model²⁴ are not ethnically based but are based on a perception of those services which are considered to be area-wide. The motivation for the services allocated to the Metro Council is two-fold. Firstly, area-wide services naturally fall into the metropolitan ambit, and secondly, where weaker areas need strengthening and support, this can best come from a metropolitan body. Another point of criticism is the vague reference to nominated boards, utility companies or metropolitan authorities. If the functions are those of local government it is not rational to allocate them to a utility company, and single purpose authorities, it is submitted, lack the co-ordination needed to achieve the economies of scale and to ensure a fair and just distribution of services. Nominated boards suffer under similar advantages. It is to be feared that Central Government decision-makers who lack a proper knowledge of local government may take decisions inimical to the continuance of strong and representative local government.

Metropolitan Authorities

17. With regard to metropolitan areas the President's Council recommends that an investigation be launched into the establishment of metropolitan authorities for the seven metropolitan areas and that attention be paid to local preferences and that a high degree of flexibility be maintained.²⁵ In the interim joint services committees should be established. The need for this approach centres around the need for decentralisation of the structure and functions of local government linked with the need also to achieve the economies of scale which lead to cost-efficiency. Metropolitan areas need certain municipal services which are market orientated and capital intensive, and which depend upon sophisticated management and control. Thus, while local authorities ought to be autonomous and financially self-supporting, some services need to be planned, co-ordinated, provided and controlled by a centralised body in order to facilitate maximum efficiency and

optimum/.....

optimum unit costs. The primary municipal councils composed of elected representatives, would nominate members to sit on the metropolitan body. It was stated that this would remove the potential for direct or indirect conflict of interest.²⁶ The Government's guidelines state that on the metropolitan level joint services will probably have to be rendered, and for which purpose bodies will have to be established on which local authorities will be represented by means of some or other proportional basis, such as a financial basis. However, the Government was not prepared to agree to the proposal that interim joint services committees be established, until technical investigations had been completed.²⁷

18. This study has been concerned with the area of Greater Cape Town, and in respect of the need for a metropolitan approach in this area, the recommendations of the President's Council confirm the findings of this study. In short, the metropolitan area of Greater Cape Town needs structural local government reform but any such reform will have to be preceded by political reform. Furthermore, in making structural reforms to local government it is highly desirable that an open and vigorously representative local government system be instituted armed with sufficient powers to carry out its tasks effectively. The recommendations of the President's Council on local government structure and the Government's reaction to them, however, do not go beyond establishing the need for the metropolitanisation of local government and in the absence of any real detail it is difficult to state more than that it is a step in the right direction.

Provincial and Regional Management

19. The President's Council also recommends the division of the Republic into eight regions for the purposes of regional administration but was apparently divided on the system to be followed. Two models were accordingly offered, the first being a series of non-legislative and non-elected regional administrative bodies. The second model would in effect amount to the retention of the existing elected provincial council, with independent voters' rolls for white, coloured and indian

voters/...

voters, but with there being possibly eight provincial councils instead of the four existing councils. In both cases there would be the maximum devolution of power to homogenous units of local government.²⁸

These recommendations must be read in the light of another recommendation to the effect that a Central Government Department of Local Government be established to achieve effective co-ordination and to give continuous attention to the implementation of those recommendations accepted by the Government.²⁹

20. The Government's Guidelines appear to foreshadow the end of the provincial system as it now exists. Provincial boundaries will remain unchanged and provincial councils will continue to exist until the end of their present terms of office but the system will inevitably have to be adapted in order to achieve self-determination over community interests and co-responsibility for common interests. The Government's guidelines then propose transferring some provincial functions to local authorities in order to assure self-determination, with the prospect of some provincial functions being allocated to metropolitan and rural regional councils. Other provincial functions may be taken over by the respective chambers of the new parliament but there would first have to be technical enquiries and consultation.³⁰

21. The testing time for these recommendations and policies will be in their implementation. Local government has constitutionally fallen under the control of the four provincial councils³¹ but the control exercised has sometimes been described as excessive and resulted in complaints.³² On the other hand, it is unrealistic to expect any central government to surrender control over local government if only because of its spending power. In South Africa with its many community problems central government control may perhaps be more necessary than in other countries. What is needed is a system akin to that found in The Netherlands, where the Central Government gives considerable financial support but avoids excessive control.³³ Up to the present local government has learnt to accommodate itself with provincial control and to develop a working relationship with provincial officials.

22. A new dispensation in terms of which local government receives greater autonomy will be welcome but it remains to be seen whether the new department will be able to avoid becoming involved in purely local decisions. The Government's guidelines accept that a need exists on the central level for efficient co-ordination of the development of local authorities, such as the training of staff. Central responsibility for the implementation of this process is likely to be accommodated in the Department of Constitutional Development.³⁴

Finance

23. The President's Council states explicitly that the current local government tax base has no adequate potential for growth and is not sufficiently flexible, with the available funds being allocated to the white, coloured and indian communities in an arbitrary fashion. The concept of neutral income sources is evolved in the Report, and these amount to all nett income from rates on commercial, industrial, mining, agricultural, government and government-derived business institutions, together with other additional local taxation and other income as recommended in the Report. The Report recommends that neutral sources of income be used to finance the activities of metropolitan/regional authorities and where such authorities are not feasible, all new income of a neutral nature be divided between black, white, coloured and indian communities. The basis of division in all cases should be linked to a programme aimed at setting minimum standards, and eliminating deficiencies in those standards possibly by allocating funds on the basis of per capita consumer spending multiplied by the actual numbers of each group in each area. However, further investigation would be needed.³⁵

24. Additional sources of revenue are also suggested from existing tax sources, such as motor licences, transfer duties, stamp duties, as well as new possible sources, such as business licences on new categories of occupational services, e.g., doctors, accountants, advocates, etc., a tax on the turnover of undertakings as another means of producing neutral income, a tax on tourism, an entertainment tax or even an employment levy on the number of employees or wage turnover.³⁶ The

President's/.....

President's Council did, however; warn that increasing taxation led to a greater financial burden and discretion would have to be exercised in taking just enough from the so-called rich without unnecessarily depressing their entrepreneurial urge, and just enough from the poor so that the priorities in their spending patterns will lead to the development of a sound and healthy community. For these reasons, the President's Council considered it vital that each community under a local authority should as far as possible be able to decide for itself on the burden of taxation and the consequential distribution of income.³⁷

25. The President's Council recommended that the local government tax base needs to be widened but did not make specific recommendations except that revenue from motor licences, entertainment tax and transfer dues should accrue to the area of origin.³⁸ These latter proposals are a redistribution of existing tax sources and not the creation of entirely new sources. There were also a group of general financial recommendations to the effect that local authorities should be led towards adopting sound financial practices and be made more effective and efficient.³⁹

26. The Government's guidelines are somewhat vague in relation to finance. All that is given is a statement that in relation to possible local authorities for the various population groups, these should be established subject to adequate financial arrangements being made to ensure the viability of local authorities.⁴⁰

27. Finance can be described as the oil that ensures the smooth running of the governmental machine. The Borckenhagen Commission felt itself unable to agree that the property tax of local authorities had reached its limits or that additional sources of revenue were required,⁴¹ although it did also suggest certain additional sources that could be considered for local authorities, viz., trade licensing, an entertainment tax or a sales tax.⁴² The Browne Committee admitted that local authorities were experiencing financial difficulties⁴³ but it turned its face against the State or the Railways paying rates on their property and

suggested/.....

suggested instead closer supervision of local government rating policies by the provincial administrations.⁴⁴ The Browne Committee did not recommend subsidies or new forms of taxation, except in limited ways such as for fire services, but it did recommend separate local government for whites, coloureds and indians, the costs of which were to be subsidised by white local authorities through the provincial administrations.⁴⁵ The Government ultimately decided to pay rates to local authorities, less 20%.⁴⁶

28. The President's Council's financial proposals constitute an important departure from the policies outlined supra in that the financial difficulties of local authorities are acknowledged and suggestions are made for additional revenue. The re-distribution of existing tax revenue is unlikely to commend itself to the Government as increases will have to be made in respect of other taxes in order to regain the expenditure "lost" in this manner. If the Government were to impose stricter financial discipline on itself this could be avoided. The creation of new tax sources is likely to receive a mixed reception. The businessmen on whom it will be imposed will almost certainly protest, and because the additional costs will be passed on to the consumer, any new taxes are likely to be inflationary in their effect.

29. However, there are other, equally important, considerations to be borne in mind. It is submitted that this study has demonstrated the existence of a large and disadvantaged section of the population, a section of the population with needs which can correctly be described as urgent. If these needs, and the term needs includes political rights, are not met the long-term prospects for a stable, peaceful and prosperous region are bleak indeed. It can also be argued that a failure or neglect to meet these perceived needs has the result of retarding the overall development of the region because so many of its people are unable to make a more meaningful contribution to that development. Accordingly it is felt that in the long-term interest the prospect of adding to inflation through the imposition of new forms of taxation is a risk which it is worth accepting.

30. As to the form or nature of the proposed new tax or taxes, the revenue generated must not only be sufficient to meet current but also future needs. There is always the risk that sources such as new types of trade licences, entertainment or tourism taxes and turnover or employment taxes will not yield sufficient revenue and may be counter-productive in effect. As an alternative it is suggested that investigation be made into a local income tax to be levied at a low rate, say 1% or 2% of income, as a means of generating the income required. For example, if there are 100 000 taxpayers in the metropolitan area of Greater Cape Town, and each of them were to contribute R100 per annum, the sum of R10 000 000 could be made available to finance urgent development. The existing tax collection structure could be adapted to collect this additional tax.

CONCLUSIONS

31. It is considered that the President's Council's Report does not contain anything which requires or justifies any departure from the thrust of this study or the models it recommends. On the contrary, it is submitted that this Report, particularly in respect of local autonomy, metropolitan systems, the division of services and finance, justifies the claims made that changes are needed in these areas. This study does depart from the provisions of the President's Council's Report in some important instances, such as the methods to be followed in creating second-tier municipalities, the franchise and the division of services but it is felt that these departures are improvements. The Report has necessarily had to be brief whereas the constitutional model is detailed. The Report does recommend new forms of tax which are not found in the constitutional model but it must be borne in mind that a provincial council may not legislate on these tax forms and in terms of the present constitutional law the constitutional model has to be enacted by a provincial council. It is therefore considered necessary to provide for subsidies until appropriate legislation enacts new forms of tax.

32./.....

32. The purpose of this study was to establish whether political reform and structural change were required in local government. It is submitted that both these needs have been demonstrated. The constitutional model, in particular, is an attempt to innovate in the field of municipal law so as to achieve reform and structural change without sacrificing stability, and to lay a foundation upon which peaceful progress can be built.

NOTES

1. Joint Report of the Committee for Economic Affairs and the Constitutional Committee of the President's Council on Local and Regional Management Systems in the Republic of South Africa (the President's Council Report), Chapter 5 read with paragraphs 7.13 to 7.22 and Recommendation Thirty-One.
2. See paragraphs 127 to 131 of Chapter Six and paragraph 59 of Chapter Seven.
3. See sections 13 and 14 of Appendix Four.
4. See, e.g., sections 11, 18, 19(2), 33, 36, 37, 38, 47, 48-52, 54, 55, and 73 of Appendix Four.
5. Black Affairs Administration Act, 45 of 1976, and section 11 in particular.
6. Community Councils Act, 68 of 1977.
7. Black Local Authorities Act, 102 of 1982.
8. The President's Council Report, paragraph 3.59 and Recommendation Fifty.
9. See paragraph 31.2 of Chapter One.
10. See the Acts referred to in notes 5 and 7 supra.
11. Paragraphs 2.23 to 2.25 of the President's Council Report.
12. Paragraphs 5.5 to 5.9 of the President's Council Report.
13. Recommendations Six and Seven on p. 105 of the President's Council Report.
14. National Party Federal Congress, Bloemfontein, 30-31 July, 1982, Public Address by the Prime Minister, p. 10.
15. Recommendation Eight on p. 106 of the President's Council's Report.

16. See section 5 of Appendix Four which provides for an open commission and hence for political negotiations.
17. The Prime Minister's Address, op, cit., p. 10.
18. Recommendations Eleven, Twelve, Thirteen and Fifteen on pp. 107-109 of the President's Council's Report.
19. See section 5 read with section 18 of Appendix Four.
20. Recommendation Sixteen on p. 109 of the President's Council's Report.
21. See section 19 of Appendix Four.
22. Paragraphs 6.17 and 6.18 and Recommendation Eighteen of the Report of the President's Council.
23. The Prime Minister's Address, op. cit., p. 10.
24. See Section 13 of Appendix Four.
25. Recommendation Thirty-One of the President's Council's Report, pp. 112-113.
26. Paragraphs 7.13 to 7.21 of the President's Council's Report.
27. The Prime Minister's Address, op. cit., p. 10.
28. Recommendations Thirty-Two and Thirty-Three on pp. 113-114 of the President's Council's Report.
29. Recommendation Twenty-One on p. 110 of the President's Council's Report.
30. The Prime Minister's Address, op. cit., p. 14.
31. See section 84 of Act 32 of 1961.
32. See paragraphs 43-49 of Chapter Seven.
33. See paragraph 69 of Chapter Six.
34. The Prime Minister's Address, op. cit., p. 11.
35. Paragraphs 9.28 to 9.31 and Recommendations Thirty-Four to Thirty-Nine on pp. 115 and 116 of the President's Council's Report.
36. Paragraphs 9.25 to 9.32 on pp. 97-98 of the President's Council's Report.
37. Paragraph 9.27 on p. 97 of the President's Council's Report.
38. Recommendations Thirty-Four and Forty-Five on pp. 116 and 117 of the President's Council's Report.
39. Recommendations Forty-Seven and Forty-Eight on pp. 117 and 118 of the President's Council's Report.
40. The Prime Minister's Address, op. cit., p. 10.
41. The Borckenhagen Report, Part I, pp. 30, 38, 40, 42-43.
42. The Borckenhagen Report, Part I, pp. 66-70.
43. The Browne Committee Report, pp. 86-89.
44. The Browne Committee Report, pp. 100-101.
45. See e.g., pp. 83-84, 85, 86-89 and 90-92 of the Browne Report.
46. The Cape Times, 13 August, 1981, p. 6.

QUESTIONNAIRE

SURVEY INTO AN ADMINISTRATIVE PLAN FOR THE METROPOLITAN
MUNICIPAL GOVERNMENT OF GREATER CAPE TOWN

1. NAME OF LOCAL AUTHORITY :
2. NO OF COUNCILLORS :
3. NO OF COMMITTEES AND THEIR NAMES :

N.B. If you have a document setting out the functions
of committees, I would appreciate a copy.

4. HOW OFTEN DURING THE MONTH DO THE COMMITTEES HOLD
ORDINARY MEETINGS :

5. HOW MANY ORDINARY MEETINGS DOES YOUR COUNCIL HOLD
DURING THE MONTH :

6. IF YOU HAVE MANAGEMENT COMMITTEES IN YOUR AREA :

- 6.1 HOW MANY ARE THERE :

- 6.2 WHAT AREAS DO THEY REPRESENT :

- 6.3 HOW MANY MEMBERS IN EACH COMMITTEE :

ELECTED

NOMINATED

7. WHAT IS THE AREA, IN HECTARE, OF YOUR COUNCIL :

8. WHAT IS THE POPULATION OF YOUR AREA, ACTUAL OR
ESTIMATED :

ACTUAL / ESTIMATED (Please tick the correct word)

WHITE

COLOURED

ASIAN

BLACK

9. HAS A POPULATION PROJECTION BEEN DONE FOR YOUR AREA?
IF SO, PLEASE INDICATE ITS NATURE BELOW FOR THE
DIFFERENT POPULATION GROUPS :

10. IF THERE ARE DECLARED GROUP AREAS IN YOUR AREA, PLEASE
INDICATE THE EXTENT IN HECTARE AND POPULATION FOR EACH
RACE GROUP :

| | <u>WHITE</u> | <u>COLOURED</u> | <u>ASIAN</u> | <u>BLACK</u> |
|-------------|--------------|-----------------|--------------|--------------|
| EXTENT (Ha) | | | | |
| POPULATION | | | | |

11. HOW MANY RATEPAYERS' ASSOCIATIONS ARE THERE IN YOUR
AREA :

Note : If you could supply a list of their names and
addresses it would be greatly appreciated.

12. DOES YOUR COUNCIL HAVE A POLICY OF RECOGNISING RATE-
PAYERS' ASSOCIATIONS : YES NO

IF YES -

- 12.1 ON WHAT BASIS :

- 12.2 WHAT BENEFITS DO THEY RECEIVE :

13. DOES YOUR COUNCIL HAVE REGULAR (OFFICIAL) CONTACT
WITH :

| | | |
|-------------------------------|-----|----|
| 13.1 RATEPAYERS' ASSOCIATIONS | YES | NO |
|-------------------------------|-----|----|

| | | |
|----------------------------|-----|----|
| 13.2 MANAGEMENT COMMITTEES | YES | NO |
|----------------------------|-----|----|

AND HAS THIS BROUGHT ABOUT BENEFITS SUCH AS IMPROVED
RELATIONS :

14./.....

14. PLEASE INDICATE YOUR COUNCIL'S DEPARTMENTAL ORGANISATION AS FOLLOWS :

NAME OF DEPARTMENT

BRANCHES OF
EACH DEPARTMENT

AVERAGE NUMBER
OF PERMANENT
EMPLOYEES

Note : An organisation chart and/or a statement of departmental organisation would be appreciated.

15./.....

15. OUT OF ALL PERMANENT EMPLOYEES OF YOUR COUNCIL, COULD YOU PLEASE GIVE A BREAKDOWN, AS FOLLOWS :

15.1 LABOURING AND SEMI-SKILLED

WHITE

COLOURED

15.2 SKILLED AND SEMI-SKILLED TECHNICAL

WHITE

COLOURED

15.3 CLERICAL AND ADMINISTRATIVE

WHITE

COLOURED

15.4 PROFESSIONAL (See Note below)

WHITE

COLOURED

Note : The Professional Classification relates not only to specialist categories such as doctors, engineers, land surveyors, etc but also to the higher ranks of administrative employees e.g. the town clerk is also a professional man, as well as lawyers, accountants, etc.

16. WHAT WAS YOUR COUNCIL'S ACTUAL/ESTIMATED* TOTAL BILL FOR 1979, IN RESPECT OF :

16.1 SALARIES AND WAGES ON REVENUE ACCOUNT :

16.2 SALARIES AND WAGES ON CAPITAL ACCOUNT :

*PLEASE DELETE WHICHEVER WORD DOES NOT APPLY.

17. WHAT IS THE -

17.1 TOTAL VALUATION OF ALL PROPERTIES IN YOUR COUNCIL'S AREA :

17.2 TOTAL RATEABLE VALUATION OF ALL PROPERTIES IN YOUR AREA :

17.3 TOTAL NUMBER OF RATEPAYERS :

18. DO YOU CONSIDER THAT -

18.1 THE STATE AND PROVINCE SHOULD PAY RATES FOR THEIR PROPERTY, AND IF YES, WHY :

18.2/.....

18.2 IS IT JUSTIFIABLE THAT RATEPAYERS IN YOUR AREA SHOULD PAY DIVISIONAL COUNCIL RATES. YOUR REASONS WOULD BE APPRECIATED :

19.1 WHAT RATING SYSTEM DOES YOUR COUNCIL USE, E.G. FLAT OR SITE OR COMPOSITE SYSTEM :

19.2 WHAT SYSTEM DO YOU CONSIDER SHOULD BE USED BY A METROPOLITAN LOCAL AUTHORITY :

20.1 IN YOUR OPINION WILL THE EXISTING RATEPAYERS BE ABLE TO FINANCE THE EXTENSIVE WORKS AND SERVICES NEEDED TO MEET THE SOCIAL AND ECONOMIC PROBLEMS OF THE AREA:

20.2 IF THE ABOVE ANSWER IS NO, WHAT ALTERNATIVE SOURCES OF REVENUE AND CAPITAL DO YOU CONSIDER SHOULD BE FOUND OR MADE AVAILABLE :

21. HOW MANY RESIDENTIAL PROPERTIES ARE THERE IN YOUR COUNCIL'S AREA IN RESPECT OF :

21.1 SINGLE DWELLING RESIDENTIAL

21.2 OTHER RESIDENTIAL

21.3/.....

21.3 BUSINESS

21.4 COMMERCIAL

21.5 INDUSTRIAL

22. DOES YOUR COUNCIL HAVE A TOWN PLANNING SCHEME -

YES

NO

AND IF SO, TO WHAT ESTIMATED EXTENT, IN HECTARE, IS
YOUR COUNCIL'S AREA ZONED AND DEVELOPED FOR

ZONING

TOTAL AREA
ZONED

AREA ESTIMATED
TO BE DEVELOPED

Single dwelling
residential

OTHER residential

Business

Commercial

Industrial

23. WHAT DO YOU CONSIDER TO BE THE MOST PRESSING OR
URGENT PROBLEMS IN YOUR AREA IN RELATION TO :

23.1 SOCIAL PROBLEMS

23.2 COMMUNITY RELATIONS

23.3 FINANCE

23.4 ANY OTHER

24. DOES YOUR COUNCIL OPERATE OR PARTICIPATE IN ANY JOINT
OR COMMUNAL SERVICE, EITHER WITH ANOTHER LOCAL AUTHORITY
E.G. AMBULANCE SERVICES, OR UNDER THE PROVINCE, E.G.
METROPOLITAN PLANNING. DETAILS WOULD BE APPRECIATED.

25./.....

25. DO YOU CONSIDER THERE SHOULD BE MORE CO-OPERATION BETWEEN LOCAL AUTHORITIES ON COMMON SERVICES. IF SO, PLEASE GIVE EXAMPLES AND INDICATE WHETHER THIS SHOULD COME ABOUT VOLUNTARILY OR THROUGH LEGISLATION PASSED BY A HIGHER TIER OR GOVERNMENT.
26. IF A METROPOLITAN LOCAL AUTHORITY COMES INTO BEING, IT WILL BE A LARGE ORGANISATION AND CONSEQUENTLY VERY BUSY. DO YOU THINK THERE WILL BE A NEED FOR PUBLIC CONSULTATION AND PUBLIC PARTICIPATION, AND IF SO, WHAT PROPOSALS WOULD YOU SUGGEST.
27. WHAT IN YOUR OPINION WOULD BE AN IDEAL FORM OF METROPOLITAN GOVERNMENT AND THE IDEAL ORGANISATION FOR A METROPOLITAN LOCAL AUTHORITY. YOUR REPLY NEED NOT BE DETAILED - MERELY A BROAD OUTLINE NEED BE GIVEN.

APPENDIX TWO

A COMPREHENSIVE LIST OF SPORTS PARTICIPATED IN BY WHITE
AND COLOURED PERSONS, EXCLUDING SCHOOL CHILDREN, THROUGHOUT
THE REPUBLIC *

| <u>TYPE OF SPORT</u> | <u>NUMBER OF PARTICIPANTS</u> | |
|---------------------------|-------------------------------|-----------------|
| | <u>WHITE</u> | <u>COLOURED</u> |
| Aerobatics | 40 | |
| Athletics | 1 600 | 1 189 |
| Basketball | 4 800 | |
| Billiards and Snooker | 2 500 | |
| Baseball | 3 215 | 506 |
| Boxing | 2 670 | 1 635 |
| Archery | 500 | |
| Surf-riding | 2 475 | 39 |
| Crouquet | 200 | |
| Service Shooting | 1 000 | |
| Cycling | 973 | 254 |
| Formula "K" | 250 | |
| Weight Lifting | 657 | 408 |
| Golf (men) | 41 000 |) 201 |
| Golf (women) | 8 000 |) |
| Gymnastics | 6 000 | 4 000 |
| Gymkhana | 2 000 | |
| Handball | 150 | |
| Hang Gliding | 400 | |
| Hockey (women) | 7 680 |) 2 610 |
| Hockey (men) | 8 000 |) |
| Judo | 15 000 | 1 424 |
| Jukskei | 12 000 | |
| Canoe | 1 700 | 415 |
| Karate | 11 500 | 253 |
| Clay Pigeon Shooting | 1 954 | |
| Small Bore Rifle Shooting | 550 | |
| Target Shooting | 286 | |
| Korfbal | 1 600 | |
| Power Boat | 1 000 | |
| Power Flying | 4 371 | |
| Cricket (men) | 41 000 |) 4 380 |
| Cricket (women) | 200 |) |
| Life Saving | 1 961 | 77 |
| Body Building | 5 000 | 239 |
| Light Tackle Boat Angling | 3 345 | |
| Air Rifle Shooting | 150 | |
| Masters Athletics | 5 000 | |
| Model Power Boat | 200 | |
| Model Yachting | 200 | |

Scale/.....

NUMBER OF PARTICIPANTS

| <u>TYPE OF SPORT</u> | <u>WHITE</u> | <u>COLOURED</u> |
|---------------------------|--------------|-----------------------|
| Scale Model Boat | 110 | |
| Radio Flyers | 1 050 | |
| Motor Sport | 10 000 | |
| Squash (men) | 25 000 | |
| Squash (women) | 4 000 | |
| National Rifle | 1 100 | |
| Netball | 40 000 | 6 367 |
| Underwater Sport | 3 000 | |
| Paraplegic Sport | 2 427 | 47 |
| Pistol Shooting | 4 000 | 480 (target shooting) |
| Badminton | 11 000 | 32 |
| Polo | 400 | |
| Polocrosse | 516 | |
| Pony Club | 3 000 | |
| Practical Pistol Shooting | 2 000 | |
| Model Radio Drivers | 200 | |
| Tenniquoits | 1 500 | |
| Rowing | 1 650 | |
| Bowls (men) | 39 346 |) |
| Bowls (women) | 28 606 |) 170 |
| Blind Bowlers | 350 | |
| Roller-Skating | 248 | |
| Roller-Skating Hockey | 340 | |
| Rock and Surf Angling | 7 000 | 551 (angling) |
| Rugby | 189 146 | 19 284 |
| Equestrian | 4 800 | 90 (horse riding) |
| Softball | 3 000 | 871 |
| Cruising | 1 081 | |
| Yachting | 2 800 | |
| Chess | 15 000 | |
| Fencing | 500 | 44 |
| Skiboat Angling | 5 281 | |
| Paddle Surfing | 340 | |
| Snowskiing | 1 342 | |
| Game Fish Angling | 1 300 | |
| Wrestling | 7 300 | 88 |
| Surf Life Saving | 2 493 | |
| Schwinger | 100 | |
| Gliding | 600 | |
| Swimming | 10 000 | 1 073 |
| Table Tennis | 2 800 | 777 |
| Tennis | 85 000 | 3 860 |
| Tenpin Bowling | 5 000 | |
| Tug-of-War | 1 600 | |
| Home Built Aircraft | 4 500 | |
| Parachuting | 750 | |
| Freshwater Angling | 11 392 | |
| Casting | ? | |

Veteran/.....

| <u>TYPE OF SPORT</u> | <u>NUMBER OF PARTICIPANTS</u> | |
|----------------------|-------------------------------|-----------------|
| | <u>WHITE</u> | <u>COLOURED</u> |
| Veteran Motor Sport | 183 | |
| Darts (men) | 2 500 | |
| Darts (women) | 422 | |
| Volleyball | 2 000 | |
| Football | 400 000 | 23 061 |
| Pentathlon | 2 000 | |
| Hot Air Ballooning | 25 | |
| Waterski | 3 491 | |
| Ice Hockey | 250 | |
| Ice Skating | 2 875 | |
| Walking | - | 17 |

* Hansard, 26th February, 1980, columns 175-176 and 25th March, 1980, columns 450-452.

Note:

The figures in respect of whites were stated to have been supplied by the national sports controlling bodies while in the case of coloureds, the information is stated to have been supplied by the Administration of Coloured Affairs.

As many people may play a sport without being nationally registered, the above figures cannot be accepted as revealing total participation in sport. Furthermore, darts have been omitted for coloureds. As this is a popular sport among coloureds--see Table 44-- this tends to cast doubt on the other figures.

LOCAL OPINIONS ON A POSSIBLE
METROPOLITAN MUNICIPALITY

Municipal Opinion

1. The Town Clerk of Cape Town was of the opinion that co-operation between local authorities on common services should take place but that it would unfortunately require to be imposed by a higher tier of government. In his opinion the ideal form of metropolitan government would be a services organisation dealing only with those matters which required to be handled on a regional or metropolitan basis.¹ The Town Clerk of Bellville also feared that although voluntary co-ordination would be best, legislation might be called for. He felt that the metropolitan area should be divided into three large municipalities working closely together on matters of a regional nature, and with "public enlightenment" in place of public participation. He stated that public participation often resulted in interference by pressure groups pursuing their own ends.²

2. The Town Clerks of Fish Hoek, Goodwood, Kuils River, Parow and Simon's Town all considered that there should be more voluntary co-operation between local authorities on common services: these services were identified as sewage treatment, fire services, solid wastes disposal, traffic control and the processing of accounts. They all stressed the voluntary aspect except the Town Clerk of Parow who thought co-ordination should be brought about by legislation, while the Town Clerk of Simon's Town stated that if a local authority refused to co-operate voluntarily, it should be subjected to compulsion. The Town Clerk of Simon's Town also referred to the value of sharing sophisticated technology. On the question of public participation the Town Clerks of Kuils River and Simon's Town agreed that this was necessary but only if it did not affect efficiency or cause delays.³

3./.....

3. The Town Clerk of Kuils River felt that the metropolitan body should not be so big that it became impersonal, and, by suggesting that officials should live in the areas they serve, he seems to be suggesting a two-tier system with the upper tier having a minimum number of councillors and without using the multiple committee system which he describes as being too cumbersome.⁴ The Town Clerk of Fish Hoek also seems to be suggesting a two-tier system by asking for the retention of regional offices for administration and personal contact.⁵ The Town Clerk of Simon's Town states that the organisation should be large enough to possess big resources but yet retain a local identity and interest: the City of Cape Town possesses the necessary resources and its services should be extended but local decision-making should be retained, i.e., the rendering of common services should flow from joint decisions between autonomous bodies, with the metropolitan authority also rendering local services if requested to do so.⁶

4. The Town Clerk of Brackenfell gave affirmative answers to the need for voluntary co-operation on common services and a form of metropolitan government, but did not indicate any possible methods. The Town Clerk of Pinelands, although in favour of public participation by elected representatives, was against more voluntary co-operation between local authorities as he felt the present position was adequate - he had no comment to offer on an ideal form of metropolitan government.⁷

Management Committees

5. The Athlone and District Management Committee had no comment to offer⁸, while the Ocean View Management Committee identified its community's problems as being the lack of choice arising from group areas legislation and a lack of community facilities: in its view there should be a number of boroughs governed by councillors elected on a non-racial basis.⁹

Ratepayer/...

Ratepayer Associations

6. De Waterkant Civic Association, which falls within the Cape Town Municipal Area, stated that there is a need for metropolitan government in Greater Cape Town as this would lead to a locally identified body co-ordinating local interests, but for specific services only to avoid the metropolitan body becoming too cumbersome. Representation should be adequate for all races with elections taking place on an area basis. The Government should pay subsidies and the main problem of the area was vagrants.¹⁰ The East Central Ratepayers' Association, an area also falling within the Cape Town Municipal area, was undecided on the need for metropolitan government as it felt this was far too weighty a matter for its members. However, if there was a metropolitan authority it should probably be for all services as a means of centralising local government, and elections should be on an area basis. There were few problems in the area, the main one being vagrancy.¹¹

7. The Kommetjie Ratepayers' Association, an area within the Cape Division, saw the proliferation of municipal infrastructures as wasteful, and, because interests varied so much, a metropolitan body should be confined to specific services--this would seem to be a plea for a two-tier system. The councillors in a metropolitan body should be broadly representative of all interests. Less developed areas need financial protection and the Government should pay subsidies. Because Kommetjie was established in 1906 it had no endowment fund in terms of Ordinance 33 of 1934, and thus could not even afford to build a hall. While Kommetjie would probably not be included in Greater Cape Town there was a case for a "Valley Municipality" consisting of Fish Hoek, Sun Valley, Sunnyside, Noordhoek, Ocean View and Kommetjie. Governing bodies should be managerial only and should not be allowed to have construction units as this led to empire building.¹²

8. The Wards 14 and 15 Ratepayers' Association in the Cape Town Municipal area, stated there is a need for a metropolitan body in order to control and co-ordinate the main functions of local

government/.....

government and to reduce costs, and there ought to be a two-tier system with common services such as roads, sewerage, fire, traffic, etc., handled at the metropolitan level. Government subsidies ought to be given and the members of the metropolitan council should be nominated by their local councils in proportion to the rate income accruing to the metropolitan council from local councils.¹³ The Ward 17 Ratepayers' and Civic Development Association, also in the Cape Town Municipal area, was in favour of a metropolitan body because of the unequal size and status of local governments in the region, and because the residents of the smaller areas use the facilities of Cape Town, the core city. The Association obviously envisaged a two-tier system since it stated that the metropolitan body should only handle services such as water, electricity, sewerage, fire, ambulance, health and transportation planning. The Association saw each local council obtaining two representatives on the metropolitan council, a system of representation which follows current municipal electoral practice. The Greater Cape Town area should be divided into local councils based on cultural and ethnic lines and the Government should pay subsidies. The problems of the area were given as social or community, e.g., vagrancy and drunkenness, a lack of consultation with ratepayer bodies and a lack of communication between the Cape Town City Council and its ratepayers.¹⁴

9. It is also recorded that the Constantia Property Owners' Association, the Rosebank, Mowbray and Observatory Civic Association and the Ward 16 Ratepayers' Association all advised that they could not reply to the questionnaire as they considered the matters at issue to be beyond their competence.

SOURCES/.....

SOURCES

1. Completed questionnaire from the Town Clerk, Cape Town.
2. Completed questionnaire from the Town Clerk, Bellville.
3. Completed questionnaires from the Town Clerks of Fish Hoek, Goodwood, Kuils River, Parow and Simon's Town.
4. Questionnaire from the Town Clerk, Kuils River.
5. Questionnaire from the Town Clerk, Fish Hoek.
6. Questionnaire from the Town Clerk, Simon's Town.
7. Questionnaire from the Town Clerk, Pinelands.
8. Letter dated 1st May, 1980, from the Athlone and District Management Committee.
9. Questionnaire from the Ocean View Management Committee.
10. Questionnaire from De Waterkant Civic Association.
11. Questionnaire from East Central Ratepayers' Association.
12. Kommetjie Ratepayers' Association, letter dated 17th April, 1980.
13. Questionnaire from the Wards 14 and 15 Ratepayers' Association.
14. Questionnaire from the Ward 17 Ratepayers' and Civic Development Association.

DRAFT ORDINANCE

To provide for the creation of a two-tier system of representative municipal self-government and administration for the Greater Cape Town area; to provide for effective and responsive municipal self-government and administration in Greater Cape Town; and to provide for all matters ancillary thereto.

BE IT ORDAINED by the Provincial Council of the Province of the Cape of Good Hope as follows:

DEFINITIONS

1. In this ordinance, unless inconsistent with the context -
 - (i) "accounting services" means the collection of revenue, and all the work involved in the accounting for revenue and expenditure including the authorisation of expenditure and the keeping of books;
 - (ii) "Administrator" means the Administrator of the Province of the Cape of Good Hope;
 - (iii) "commission" means the commission established in terms of section 5;
 - (iv) "councillor" means a member of the Metro Council or a municipal council;
 - (v) "Delimitation Commission" means the Delimitation Commission established in terms of section 19.
 - (vi) "employee" shall mean any person in the full-time paid employment of the Metro Council or a municipal council, including, where applicable, an employee of the former Divisional Council of the Cape;

(vii)/.....

- (vii) "executive committee" means the executive committee established in terms of section 29;
- (viii) "fictitious person" shall have the meaning assigned to it in terms of section 2 (xxxvii) of the Principal Ordinance;
- (ix) "immovable property" shall have the meaning assigned to it in terms of section 2 (XLV) of the Principal Ordinance;
- (x) "management services" means any administrative service;
- (xi) "metropolitan area" means the municipal areas of Bellville, Cape Town, Brackenfell, Durbanville, Fish Hoek, Goodwood, Kraaifontein, Kuils River, Milnerton, Parow, Pinelands, Simon's Town and the area of the Divisional Council of the Cape in existence on 31st December, 1983 and such other area as may be added thereto;
- (xii) "Metro Council" means the Metropolitan Council established in terms of section 9(1);
- (xiii) "Metropolitan Municipality" means the Metropolitan Municipality of Greater Cape Town established in terms of section 2;
- (xiv) "municipal council" means the councils of the municipalities in the metropolitan area;
- (xv) "occupier" for the purpose of section 18 of the ordinance means the person who controls and resides on or who controls and otherwise uses immovable property and, in the case where spouses reside in the same immovable property, the one who is not the registered owner thereof shall be deemed to be the occupier subject to the qualification provided for in section 18;
- (xvi) "Official Gazette" means the official gazette of the Province of the Cape of Good Hope;
- (xvii) "ombudsman" means the person appointed in terms of section 55(b);

(xviii)/.....

- (xviii) "ordinance" means the Metropolitan Municipality of Greater Cape Town Ordinance, 1982;
- (xix) "owner" shall have the meanings assigned to it by section 2 (LXii) of the Principal Ordinance;
- (xx) "Principal Ordinance" means the Municipal Ordinance, 20 of 1974, as it existed on the 31st day of December, 1983 and as it may subsequently be amended according to sections 75 and 76 of the Ordinance;
- (xxi) "Town Clerk" means the Town Clerk who is to be appointed in terms of section 59 and includes any person lawfully acting in his stead.

CREATION OF A METROPOLITAN COUNCIL
AND ALLIED MATTERS .

2. The area consisting of the municipal areas and all the inhabitants of Cape Town, Bellville, Brackenfell, Durbanville, Fish Hoek, Goodwood, Kraaifontein, Kuils River, Milnerton, Parow, Pinelands, Simon's Town, the Division of the Cape and that portion of the Division of Stellenbosch containing the municipal areas of Brackenfell, Kraaifontein and Kuils River together with such additional part of the Division of Stellenbosch as may be recommended by the commission to be established in terms of section 5(1) shall with effect from 1st January, 1984, together constitute the Metropolitan Municipality of Greater Cape Town.

3./.....

3. The Metropolitan Municipality of Greater Cape Town shall be a body corporate with perpetual succession and shall, subject to the provisions of this ordinance or any other law, by such name be capable in law of suing and being sued, of purchasing, holding and alienating land, of entering into contracts, of performing the functions assigned to it in this ordinance and generally of doing and performing all such acts and things as bodies corporate may by this or any other law do and perform.

4. Save and except for the Divisional Council of the Cape all the municipalities referred to in section 2 shall remain in existence in the form they had on 31st December, 1983, until the Administrator has taken a decision on the report of the commission referred to in section 5.

5. (1) By not later than the month of March, 1983, the Administrator shall appoint a commission of enquiry consisting of three persons who may be active or retired judges of the Supreme Court of South Africa or practising advocates with not less than ten (10) years' experience, or any combination of these, for the purpose of:
 - (a) establishing whether the municipalities and divisions referred to in section 1 ought to be adjusted in area in any way or new municipalities created; and
 - (b) producing a delimitation of such municipalities into wards in accordance with any recommendations that may be made for the adjustment of the shape and size of those municipalities, and if no such recommendations are made, to produce a delimitation of such municipalities into wards in accordance with their existing shape and size.

- (2) The commission appointed in terms of section 5(1) shall have the power -

(a)/.....

- (a) to subpoena witnesses, to examine them under oath and to call for such evidence and information from any person as it may deem necessary; and
- (b) to require any employee of any municipality in Greater Cape Town, the Divisional Council of the Cape or the Divisional Council of Stellenbosch, to assist it for as long as it may deem necessary -

and the commission shall furthermore:

- (c) hold public hearings;
 - (d) invite oral and written representations;
 - (e) advertise all public hearings and the dates by which oral or written representations shall be received, in newspapers circulating in Greater Cape Town;
 - (f) frame, and publish for general information, rules of procedure;
 - (g) issue to members of the public on request and publish in the press a list of the guidelines according to the way in which it sees its task and setting out the issues involved.
- (3) The commission shall submit its report to the Administrator by not later than 30 September, 1983.
 - (4) The Administrator shall announce his decision on the commission's report by not later than the end of March, 1984, and shall have the power to amend, vary or rescind any recommendation of the commission. Should the Administrator amend, vary or rescind any recommendation of the commission he shall publish his decision together with the reasons therefor in the Official Gazette and in the newspapers circulating in the Greater Cape Town area.
 - (5) The commission, in fulfilling its functions in terms of sub-sections (a) and (b) of sub-section (1) of section 5 shall

have/.....

have regard to the existing and future economic growth of the area, the need to promote development, the need for vigorous local government, community interests and identity, cultural and social interests, physical features and such other matters as the commission may wish to identify: Provided that all additional factors identified by the commission shall be included in the guidelines contemplated by sub-section (g) of sub-section (2) of section 5.

5. (6) The commission shall be discharged as functus officio when its recommendations, subject to any amendment, alteration or rescission thereof in terms of section 5(4), have been implemented and brought into effect.

ABOLITION AND ADJUSTMENT OF DIVISIONS

6. The Division of the Cape shall be abolished with effect from 31st December, 1983, and shall, subject to section 17, cease to operate with effect from 1st January, 1984.
7. The boundaries of the Division of Stellenbosch shall be adjusted by the excision from that Division, with effect from 31st December, 1983 of the municipal areas of Brackenfell, Kraaifontein and Kuils River, together with the additional area to be determined by the commission in terms of section 5(1)(a).
8. (1) The assets and liabilities, rights and obligations, debts and claims, movable and immovable property, and, subject to sections 70 and 71, the contracts of employment of the employees of the Division of the Cape shall with effect from 1st January, 1984, vest in and become the property of and on obligation of the Council established in terms of section 9 and the aforesaid employees shall, subject to sections 68 and 69, be deemed to be employees of the Metro Council.

8. (2)/.....

- (2) The Division of Stellenbosch shall with effect from 1st January, 1984, not have the power to levy any rate or to render any service in the municipal areas of Brackenfell, Kraaifontein or Kuils River: Provided that the aforesaid Division may collect any debt owed or demand any performance which become due up to and including 31st December, 1983.
- (3) Any matter not dealt with by or in terms of sub-sections (1) and (2) of section 8 shall be decided by a determination made by the Administrator and such determination shall have the force of law and be binding on all the parties concerned.

FUNCTIONS AND POWERS

- 9. (1) The Metropolitan Municipality of Greater Cape Town shall be governed and represented by a Metropolitan Council (hereafter the Metro Council) consisting of councillors nominated by the municipal councils.
- (2) The number of councillors which municipal councils may nominate to represent them on the Metro Council shall be determined according to the ratio of one representative for each complete R250 000 income contributed to the rate income of the Metro Council in terms of section 57(2): Provided that if the rate contribution of any municipal council is less than R250 000 but more than R200 000 it shall nevertheless be entitled to nominate one representative: Provided further, that if the rate contribution of a municipal council is below R200 000 the Metro Council may nevertheless agree to that municipal council having one representative on the Metro Council, and the Metro Council, if so directed thereto by the Administrator, shall accord the aforesaid municipal one representative on the Metro Council.
- (3) A Metro councillor who ceases to be a municipal councillor shall cease to be a Metro councillor and any municipal council may by a resolution of a majority of its members terminate the nomination

of any of its members to the Metro Council.

10. Municipal councils shall subject to the powers, duties and functions of the Metro Council, continue to govern and represent their municipalities.
11. The Metro Council shall have the following powers:
 - (a) the maintenance of good rule and government;
 - (b) ensuring the convenience, safety and comfort of the inhabitants of the metropolitan area;
 - (c) ensuring that the metropolitan area has effective, responsive and accountable local government;
 - (d) the general development and government of the metropolitan area on a basis of justice to all interests and all persons;
 - (e) the rendering of any service in accordance with (a) to (d) above.
12. The municipal councils in the metropolitan area shall in respect of all the functions of the Metro Council, be subordinate to the Metro Council and shall conduct their affairs and activities in accordance with the provisions of section 11.
13. The Metro Council shall, notwithstanding any ordinance to the contrary but subject to any Act of Parliament, have full power to render the following services subject only to this ordinance and to those parts of the Principal Ordinance which may be applied to the Metro Council:
 - (a) engineering services, namely, all trunk or main or important roads and water, electricity and gas reticulation as well as the collection and disposal of wastewater;
 - (b) the collection and disposal of all waste products;
 - (c) the provision, construction, re-construction, maintenance, operation, closure or abolition of the activities envisaged

in/.....

in (a) and (b) above;

- (d) traffic control, fire fighting, fire prevention and civil defence, subject in the case of civil defence to municipal councils being responsible for organising and implementing civil defence measures in their areas;
- (e) public health services;
- (f) regional accounting services and management services;
- (g) revenue collection and general supervision over the expenditure of municipal councils;
- (h) regional physical planning and transportation planning;
- (i) regional environmental and anti-pollution services;
- (j) regional amenities and recreation services;
- (k) regional community development services;
- (l) housing, subject to a municipal council assuming the function of administering the housing provided in its own area and at its own cost;
- (m) abattoirs, markets and other public utilities;
- (n) cemeteries;
- (o) regional ambulance services;
- (p) regional law enforcement;
- (q) such supplementary or ancillary services as may be required in order to provide or render the services to be provided in terms of (a) to (o) above;
- (r) such other or additional service as the Metro Council may by special resolution deem necessary to enable it to fulfill its functions in terms of section 11.

14. The functions of municipal councils shall be those functions not assigned to or assumed by the Metro Council in terms of section 13: Provided that the Metro Council and a municipal council may mutually agree, subject to suitable financial arrangements as to the costs

involved/.....

involved, for the former to carry out a function falling within the jurisdiction of the latter.

15. Should any dispute arise between the Metro Council and a municipal council as to jurisdiction in regard to any power, function or service, such dispute shall be settled either by the parties voluntarily agreeing to submit the matter to arbitration by a single or two arbitrators, or in the event of such agreement not being reached, to such single or two arbitrators as the Administrator in his sole discretion may appoint.
16. The power of the Metro Council or a municipal council to render any service or to carry out any duty or to exercise or perform any right or obligation shall be accompanied by the general conferment of any supplementary, ancillary or incidental power to render that service, carry out that duty or to exercise or perform that right or obligation.

INTERIM ARRANGEMENTS

17. (a) Notwithstanding the abolition of the Divisional Council of the Cape in terms of section 6 the former employees of that Council who, subject to section 8(1) are deemed to be employees of the Metro Council shall continue to render the services formerly rendered by the Divisional Council of the Cape in the name and on behalf of the Metro Council and under the supervision of the Metro Council until other arrangements are made.
- (b) For the purposes of sub-section (a) the Metro Council shall be deemed to have the powers, duties and functions of a divisional council in terms of any law.

FRANCHISE, VOTERS' ROLL AND ELECTIONS

18. (1) The following persons shall be eligible to be enrolled as voters for the election of members of a municipal council:

(a)/.....

- (a) every natural person over the age of 18 years and who is the owner of immovable property which is ratable;
 - (b) every natural person over the age of 18 years who is the occupier of immovable ratable property with a ratable valuation exceeding R1 000; and
 - (c) every fictitious person who is the owner of ratable immovable property or the occupier of ratable immovable property with a ratable valuation exceeding R1 000.
- (2) Every person enrolled as a voter in terms of sub-section (1) shall have the following votes:
- (a) each voter, whether a natural or a fictitious person who owns immovable property with a ratable value up to R10 000, one vote;
 - (b) each voter, whether a natural or a fictitious person who owns immovable property with a ratable value up to R20 000, two votes;
 - (c) each occupier of immovable property of a ratable value exceeding R1 000, one vote.
19. (1) The area of each municipal council shall, subject to section 5, be divided into wards and may be re-divided into wards from time to time.
- (2) At intervals of at least every five years there shall be a general re-delimitation of the areas of municipal councils into wards.
- (3) Such re-delimitation shall be undertaken by a Delimitation Commission consisting of three persons who may be active or retired judges of the Supreme Court of South Africa or practising advocates with not less than ten (10) years' experience or any combination of these.
- (4) The Delimitation Commission in fulfilling its task shall have regard to the existing and future economic growth of the area,

the/....

the need for an equitable distribution of voters, the need for vigorous local government, community interests and identity, cultural and social interests, physical features and such other factors as the Commissioners may publicly declare will be considered by them.

- (5) The Delimitation Commission shall hold public sittings and shall, by public advertisement, invite the views of interested parties.
- (6) The Metro Council shall provide whatever administrative or technical assistance the Delimitation Commission may require.
- (7) A copy of the report of the Delimitation Commission shall be delivered to each municipal council and the original shall be handed to the Metro Council.
- (8) The members of the Metro Council and the members of the municipal councils shall hold a joint sitting to decide on the report of the Delimitation Commission within eight (8) weeks of receiving the Commission's report. Should such a joint sitting not be held within eight (8) weeks the report of the Delimitation Commission shall be deemed to have been adopted by the Metro Council and the municipal councils.
- (9) At the joint sitting contemplated by sub-section (8) of section 19 a majority of the members of the councils concerned may:
 - (a) adopt the report of the Delimitation Commission; or
 - (b) amend, vary or rescind any provision thereof but not the whole thereof and thereafter adopt the aforesaid report together with any amendment, variation or rescission of any provision thereof: Provided that should any amendment, variation or rescission be made to any provision thereof, the unamended report of the Delimitation Commission together with a list of any amendments, variations or rescissions shall be sent to the editors of all registered newspapers circulating within the Metro area and to the Administrator and the Minister of the Interior.

(10) The Administrator or the Minister of the Interior may, if either one or both of them believes that any amendment, variation or rescission made to the report of the Delimitation Commission will result in any injustice being done to any section of the community comprising Greater Cape Town or will result in ineffective or inefficient local government, cancel and annul any such amendment, variation or rescission in which event the provision concerned shall be deemed to have been adopted in its original form. Any decision by the Administrator or the Minister of the Interior in terms of this sub-section shall be sent by the Metro Town Clerk to the editors of all registered newspapers circulating within the area of Greater Cape Town.

20. Every person offering himself as a candidate for election as a municipal councillor shall, apart from compliance with any law relating to the nomination of councillors for election, complete and sign the following declaration:

"I.....AB residing at do hereby solemnly affirm and declare:

- (a) that I have no interest in any contract, arrangement, business, application or any matter whatsoever whereby I shall or do or may derive any direct or indirect pecuniary benefit or any other advantage or benefit both now or in the future;
- (b) that whenever any matter comes before any council on which I may serve and I have any direct or indirect pecuniary interest or may derive any other advantage or benefit therefrom as a result of a decision by such council, I shall declare my interest as provided for in the law and shall neither participate in the discussion of or voting on such matter and nor shall I directly or indirectly ask any other councillor or employee to discuss such matter or to vote or to recommend thereon in any particular manner or way;

(c)/.....

(c) that I shall, if elected, faithfully and sincerely carry out my duties as a councillor in the interests of the whole community that I have been elected to serve.

I regard this affirmation and declaration as binding on my conscience and I enter into it fully aware of all that it entails.

Signed at on (day, month and year).

Witnesses:

1.

2.

....."
Signature

21. Every municipal councillor nominated to serve on the Metro Council shall complete and sign a declaration which shall be in the form set out in section 20.
22. Save and except for sections 17 to 21 of this Ordinance the provisions of the Principal Ordinance relating to the compilation of voters' rolls, voting rights, the qualifications for councillors, the holding and conduct of elections and the election of councillors shall mutatis mutandis apply to the municipal councils in the metropolitan area: Provided that any decision required to be made by the Administrator in terms of the aforesaid provisions shall be made by the Metro Council.

OFFICE BEARERS

23. Each municipal council shall appoint from among its members one councillor to serve as mayor and one councillor to serve as deputy mayor.
24. The Metro Council shall during September in each year, and after the elections for municipal councillors in a year when elections must be held, appoint from amongst its members two members, one to act as mayor and the other to act as deputy mayor.

25./.....

25. The offices of mayor and deputy mayor as provided for in sections 23 and 24 above shall be for a period of one year reckoned from the date of appointment and a member may be appointed mayor or deputy mayor for more than one period of office.
26. A municipal council and the Metro Council may pay to their mayors and deputy mayors such allowances and provide them with such facilities as they may deem necessary.
27. The offices of mayor and deputy mayor shall be offices of honour and not of authority and shall not be vested with any executive powers save and except that:
 - (a) the mayor, or in his absence the deputy mayor or in the absence of both the mayor and the deputy mayor, a councillor nominated by the members present, shall preside over all meetings of the council and shall enforce order and good behaviour;
 - (b) the mayor shall represent his council in relations between the council and official and other bodies;
 - (c) the mayor or any person lawfully acting in his stead shall have the power to convene public meetings as provided for in section 55(e);
 - (d) any mayor shall have the power to convene a special meeting of his council to discuss any matter of urgency or concern.

SYSTEMS

28. A municipal council may appoint such committees as it may deem necessary and may appoint such of its members to such committees as it deems fit and may also -
 - (a) appoint the chairmen of committees or leave such appointments to the members of each committee;

(b)/.....

- (b) assign such terms of reference and functions to such committees as it may deem fit;
- (c) delegate such of its powers, duties and functions to such committees conditionally or unconditionally save and except that it shall not delegate to any committee the power to make and levy a rate, to appoint the town clerk or heads of departments or to make a by-law: Provided that the conferring of any delegation shall be subject to the same procedure as laid down in section 30(1) for the Metro Council.

29. The Metro Council shall, in September of each year after the appointment of the mayor and deputy mayor, appoint an executive committee consisting of five members, and shall appoint one of the members thereof to be the chairman and another to be the vice chairman of such executive committee.

30. (1) The Metro Council shall have the power to appoint committees, including the committees referred to in section 55(c) but before any committee so appointed may commence functioning, the Metro Council shall -

- (a) advertise its intention of appointing a committee as aforesaid and outline the terms of reference, functions and delegated powers, if any, of the committee;
- (b) call for public objections to the appointment of the proposed committee and leave open for public inspection the full terms of reference, functions and delegated powers, if any, of the proposed committee;
- (c) duly consider all objections and debate the matter at a meeting to which the public are allowed access; and
- (d) should it confirm the appointment of the proposed committee, it shall act in terms of section 38.

(2) Any committee so appointed shall report to the executive committee.

31. The powers, duties and functions of the executive committee shall be as follows:

- (a) to take decisions on all matters on which a decision by the Metro Council is not required;
- (b) to submit annually capital and operating budgets for the approval of the Metro Council;
- (c) to prepare and annually to review capital expenditure programmes for periods not exceeding five years reckoned from each current year, and therein to recommend priorities for the allocation of resources;
- (d) to report at least once a month to the Metro Council on the carrying out of its functions;
- (e) to review policies or to initiate new policies and in connection therewith to make recommendations to the Metro Council;
- (f) to consider and report to the Metro Council on all matters of a local government nature or any matter which in any way affects the municipal government and administration of Greater Cape Town;
- (g) to supervise generally the administration of personnel;
- (h) to perform all acts and to do all things as may be necessary to enable the executive committee to carry out and perform its powers, duties and functions as set out above.

32. The following powers are reserved to the Metro Council and may not be carried out by the executive committee or any other body or person:

- (a) the making, amendment or repeal of by-laws;
- (b) the annual adoption of the operating and capital budgets and the capital expenditure programme;
- (c) the levying of any rate;

(d)/.....

- (d) the adoption, amendment or repeal of the structural, management, financial and resources plans for the metropolitan area referred to in section 37;
 - (e) the appointment of the Town Clerk and heads of departments;
 - (f) such other matters as the Metro Council may by a majority of the votes of all its members reserve to itself.
33. (1) The whole of the executive committee or any one or more members thereof shall be discharged from office by a vote of no-confidence passed by a majority of the votes of all the members of the Metro Council.
- (2) A member of the Metro Council who wishes to move a motion of no-confidence in terms of sub-section (1) shall deliver his motion in writing to the Town Clerk and a copy thereof to the member or members of the executive committee concerned.
- (3) The Town Clerk shall within twenty-one (21) days of receipt of the written motion of no-confidence convene a special meeting of the Metro Council.
- (4) The agenda convening the special meeting of the Metro Council referred to in sub-section (3) shall contain the motion of no-confidence, such other matter as in the opinion of the Town Clerk may be relevant thereto and no other business.
- (5) In the event of the Metro Council adopting the motion of no-confidence it shall, immediately the result of the vote has become known, proceed to appoint one or more councillors, as may be necessary, to be members of the executive committee in the place of those so removed.
- (6) No decision of the executive committee shall be invalid merely by reason of the fact that a member thereof, who voted for that decision, has been removed from office by means of a vote of no-confidence.

DECISIONS/.....

DECISIONS AND PLANNING

34. The decisions of the Metro Council and of municipal councils in the Metro area shall be taken by way of a majority of those councillors present and voting: Provided that a decision by the Metro Council on any matter relating to a power reserved to it in terms of section 32 shall be taken by a majority of the total number of the members of the Council.
35. The provisions of section 34 shall mutatis mutandis apply to the taking of decisions by committees.
36. (1) The Metro Council shall, to enable it to carry out its powers as set out in section 11 and its functions as set out in section 13, annually frame a set of goals and objectives for the services it renders.
- (2) The draft goals and objectives shall be advertised in all registered newspapers circulating in the Metro area inviting the public to comment on or to object thereto.
- (3) After the period allowed for comment and objection has expired, the Metro Council shall consider the comments and objections received and either confirm the draft goals and objectives in their original form or amend, vary or rescind any provision thereof and thereafter adopt them in their amended, varied or rescinded form.
- (4) The set of goals and objectives provided for herein shall be reviewed annually. In preparing its revised set of goals and objectives for any year, the Metro Council shall indicate the extent to which it had or had not met the norms set by the goals and objectives being reviewed.
37. (1) It shall be incumbent on the Metro Council to take positive steps to promote the economic and social development of the metropolitan area and to assist it in this task, it shall within two years of coming into existence, and triennially thereafter -

(a)/.....

- (a) prepare a structural plan for the metropolitan area and the area covered by the former Cape Metropolitan Planning Committee, setting out in broad outline the proposed physical development of the aforementioned areas;
 - (b) prepare a management plan for the services it renders or intends to render setting out in broad outline how it proposes to manage the operation of these services; and
 - (c) prepare a financial and resources plan for the metropolitan area showing how it proposes to acquire and use the resources needed to implement the plans described in (a) and (b) above.
- (2) Upon completion of the plans described above for the first time, and at every triennial review thereof, the Metro Council shall cause the aforesaid plans to be advertised for public comment or objection and shall also send copies thereof to the Administrator and the Minister of the Interior.
- (3) After the period allowed by the Metro Council for comment and objection has expired the Metro Council shall consider the comments and objections received, together with the views, if any, of the Administrator and the Minister of the Interior, and may then either confirm the aforesaid plans, or amend, vary or rescind any provision thereof and thereafter shall adopt them in their amended, varied or rescinded form.
- (4) Once the Metro Council has finally adopted the plans contemplated by sub-section (1) it shall be bound thereby except in the case of any emergency or any alteration in the circumstances in the whole or part of the metropolitan area. All departures from the approved plan shall be published for information in the registered newspapers circulating in the Metro area.
38. Immediately after adopting any policy, or finally adopting the annual goals and objectives contemplated by section 36 or finally adopting the plans contemplated by section 37, or in the event of the Metro Council varying, amending or rescinding any of the aforesaid goals, objectives/....

objectives or plans, or in the event of the Metro Council levying any rate or adopting any by-law, it shall transmit such policy, goals and objectives, plan, rate levy or by-law to the editors of all registered newspapers circulating in the metropolitan area.

39. The Metro Council may subject to the provisions of this Ordinance, at any time vary, amend or rescind any decision previously taken.

RECORDS

40. The Metro Council shall keep such records of its activities as may be necessary to enable it to carry out and manage its functions and activities and in particular shall -
- (a) keep a record of all decisions taken, whether in open council or committee, by the Council itself or any of its committees; and
 - (b) keep such books of account as may be necessary to maintain a detailed record of all its assets, liabilities and transactions showing capital transactions and revenue transactions separately.
41. All records shall be in the custody of the Town Clerk or the Treasurer depending on the nature of the records concerned but the Town Clerk shall have full access to all the records of the Metro Council and subject to the jurisdiction of a competent court, no other person shall have access thereto unless the Metro Council or the Town Clerk so directs. Any matter, the premature disclosure of which before a final decision is taken is deemed by the Metro Council to be prejudicial to the interests of the Council may be taken in committee.

CONFIDENTIALITY

42. (1) The public shall have access to all meetings of the Metro Council and all matters at Council meetings shall be discussed in open council except the following:

(a)/.....

- (a) the appointment, dismissal, promotion or disciplining of employees;
 - (b) any matter in respect of which the Council is or is likely to become involved in any legal proceedings or arbitration;
 - (c) the compensation to be paid for the expropriation of any immovable property or rights in respect thereof or the acquisition of immovable property or rights in respect thereof;
 - (d) any matter relating to the security of the property, assets or personnel of the Metro Council and any organisation dealing with security matters.
- (2) The Town Clerk or his authorised representative may mark any matter contemplated by sub-sections (a), (b), (c) and (d) of sub-section (1) to be confidential and any person who discloses such matter without authority shall be guilty of an offence.
43. The public shall not have any right of access to meetings of the executive committee of the Metro Council or any other committee thereof.
44. Any member of the public may inspect and take copies of or extracts from any minute book kept by the Metro Council except a minute book containing the matters referred to in sub-sections (a), (b), (c) and (d) of sub-section (1) of section 42: all such matters shall be recorded in a separate minute book.

STANDING ORDERS, RULES AND DELEGATIONS

45. (1) The Metro Council shall delegate to its executive committee all such powers, duties and functions as it may deem fit other than the powers reserved to it in terms of section 32.

(2)/.....

- (2) The executive committee shall in turn delegate to other committees, the Town Clerk and heads of departments such powers as may be required to enable them effectively to carry out their powers, duties and functions.
 - (3) the delegation of powers, duties and functions to the executive committee, the Town Clerk and heads of departments shall be subject to the following limitations:
 - (a) the executive committee shall not be permitted to authorise expenditure exceeding R1 000 000 (one million Rands) on any one scheme and the Town Clerk and heads of departments shall singly or jointly not be permitted to authorise expenditure of more than R100 000 (one hundred thousand Rands) on any one scheme without the specific authority of the council or the executive committee as the case may be, and subject to the law relating to the invitation of tenders;
 - (b) notwithstanding the provisions of (a) above, no expenditure shall be authorised unless provision therefor has been made in the current capital estimates or operating budget;
 - (c) the staff establishment may not be exceeded without the prior authority of the executive committee;
 - (d) the holders of delegations shall submit such periodical reports as may be required by the Metro Council from time to time on the exercise of their powers, duties and functions;
 - (e) any person aggrieved at any decision taken under delegated powers by any committee or any employee shall have the right to appeal direct to the Metro Council for redress.
46. The Metro Council shall within six (6) months of the 1st January, 1984, prepare the following:

(a)/.....

- (a) rules of order to regulate and control the debate and procedure at Council and committee meetings;
 - (b) standing orders in which provision shall be made for -
 - (i) the terms of reference and functions of committees;
 - (ii) financial standing orders regarding the control of income and expenditure, the incurring of expenditure, the compilation of estimates, and related matters;
 - (iii) general administrative standing orders setting out the formal framework for the co-ordination and management of the Council's service.
47. The rules of order and standing orders contemplated by section 46 shall be made as by-laws and may be amended, varied or rescinded from time to time, and in addition:-
- (a) copies thereof shall be kept at all administrative offices of the Metro Council to be viewed on demand by any member of the public;
 - (b) copies thereof shall be supplied free of charge to members of the public upon request; and
 - (c) copies thereof, and any amendments thereto, shall be treated as provided for in section 38.

OFFENCES BY COUNCILLORS AND
EMPLOYEES

48. No councillor or employee of the Metro Council shall directly or indirectly be concerned in or with, or participate in the fruits of, or in any way obtain any benefit or advantage, financial or otherwise:-
- (a) in any contract with the Council; or

(b)/....

- (b) by offering to do or to refrain from doing any act which it is his duty to do, perform or carry out and by so doing gaining any reward, advantage or benefit, financial or otherwise, other than the salary or allowances he may receive by virtue of his office or employment;
- (c) by offering directly or indirectly through any other person, information to any person where that information is not generally available to the general public;
- (d) by promising or offering to use his influence or position to secure for another person anything which cannot be secured by that other person by approaching the Council -

and all such conduct as aforesaid shall constitute an offence.

49. No councillor of the Metro Council shall:

- (a) demand from any employee of the Metro Council or any municipal council any information, benefit or favour which the aforesaid employee is not in a position to give to any member of the public at large; or
- (b) purport to give orders to or in any way direct the activities and efforts of or to hinder or obstruct or threaten any employee of the Metro Council or any municipal council -

and such conduct shall constitute an offence.

50. (1) Whenever the Town Clerk of the Metro Council comes into possession of any information which causes him to believe on reasonable grounds that an offence in terms of sections 48 or 49 has been committed, he shall -

- (a) forthwith place all the information at his disposal in writing before the Attorney-General; and
- (b) thereafter inform the Council of the action he has taken.

51. No councillor of the Metro Council shall appear before the Council, or in any forum directly or indirectly act against it in the capacity of advocate, attorney, law agent or agent.
52. Every councillor of the Metro Council who has any form of interest whatsoever, whether direct or indirect or whether pecuniary or otherwise in any matter considered or to be considered by the Metro Council or any of its committees, shall declare such interest and shall not remain in the room where the meeting is taking place or take part in the discussion or voting on that matter unless a majority of the members present at the meeting decide that the matter is trivial and of no consequence, and any such decision shall be fully recorded in the minutes of that meeting.
53. Every Metro Councillor shall furnish the Town Clerk with a list of any shares or any directorships he holds in any registered company or co-operative or any interest he may have in any business or partnership which trades, does business or has any legal or business relationship with the Metro Council, and all such information shall be available to the public for scrutiny.

PUBLIC CONSULTATION

54. It shall be the general duty of the Metro Council to conduct its affairs as openly as possible and to keep the inhabitants of its area informed of its activities.
55. In pursuance of the general duty imposed in terms of section 54, the Metro Council shall -
 - (a) establish and maintain an information service for the purpose of disseminating information about its current and proposed activities in whatever manner it may deem fit;
 - (b) appoint an ombudsman to investigate and report on any misuse of power by the Metro Council or any of its committees or

any/.....

any of its employees or any decision or action by the Council, its committees or any of its employees which may result or has resulted in an injustice to an inhabitant of the Metro area. The ombudsman shall only act where the complainant has exhausted any other remedy available to him and he is hereby empowered to examine any record and to call for any information or evidence from any Metro Councillor or employee. The ombudsman shall send a report on any investigation undertaken by him to the Town Clerk and shall also send copies of such report to the editors of all registered newspapers circulating within the metropolitan area;

- (c) arrange periodical meetings with the members of municipal councils and the representatives of functioning ratepayers' associations within the metropolitan area for the purpose of exchanging information and views. The aforesaid meetings may be held separately or together and shall take place at intervals to be mutually decided but at least once a year. The Metro Council shall be represented at such meetings by such persons as it may appoint;
- (d) undertake such surveys of such types it may deem fit in order to establish public views and the needs of the whole or a part of the population of the metropolitan area;
- (e) convene public meetings at which enrolled voters shall have the right to vote, to consider any matter of public concern or relating to the services rendered by the Council. Any vote taken at any public meeting as aforesaid shall not bind the Metro Council but any decision taken by the Metro Council on a resolution taken at a public meeting shall be treated in terms of section 38.

FINANCIAL/.....

FINANCIAL MATTERS

56. The sources of income of the Metro Council shall be as follows:

- (a) the rates levied by the Metro Council on immovable property;
- (b) an amount to be paid annually at the beginning of each year by the Province of the Cape of Good Hope representing the difference in cost between providing metropolitan services to a particular municipal area and the amount of rates actually paid by that area where the rates actually paid by the aforesaid municipal area will not be equal to the cost of providing the metropolitan services, subject to the Metro Council proving to the satisfaction of the Administrator that the difference between cost and rate income for the municipal area in question is unavoidable;
- (c) an amount to be paid over annually at the beginning of each year by the Province of the Cape of Good Hope in the form of an unconditional grant. The amount so to be paid shall be negotiated annually but shall at least be equal to any difference between the estimated cost of operating all the services rendered by the Metro Council and the amounts received in terms of (a) and (b) above;
- (d) such other subsidies as may be paid from time to time by other levels of government in respect of specific services and which shall not be treated as unconditional grants;
- (e) the revenue accruing from fines, fees, service charges, tariffs, imposts or levies.

57. (1) Section 82 of the Principal Ordinance shall apply to the metropolitan area subject to any reference to a council in subsection (2) thereof being deemed to mean the Metro Council.

(2) The Metro Council shall -

(a)/.....

- (a) for every year make and levy on all ratable property within its metropolitan area a general rate and a health rate; and
 - (b) for any year when it is considered necessary, make and levy on all ratable property within its municipal area an extraordinary rate.
- (3) The provisions of sub-section (2) shall be deemed to form part of the Principal Ordinance but limited in its application to the metropolitan area as defined in this ordinance.
58. In all other respects the provisions of Chapter VIII of the Principal Ordinance shall mutatis mutandis apply to the metropolitan area save and except:
- (a) that in relation to the Metro Council any reference to the consent or approval or direction of the Administrator shall be deemed to be a reference to the Metro Council; and
 - (b) that in relation to any municipal council any reference to the consent or approval or direction of the Administrator shall be deemed to be a reference to the Metro Council.

PERSONNEL

59. The Metro Council shall appoint a Town Clerk who shall be the chief executive and administrative officer of the Metropolitan Municipality.
60. The Metro Council shall appoint heads of departments to take charge of the departments established by the Metro Council and may also appoint such other employees as may be necessary.
61. The powers, duties and functions of the Town Clerk shall be as follows:-

(1)/.....

- (1) To give effect to all resolutions of the Metro Council and any of its committees.
 - (2) To be the communication link between the Metro Council, its committees and departments.
 - (3) To co-ordinate and control the efficiency of the administration, organisation and management of the Metro Council's departments.
 - (4) To be the leader of the Metro Council's service.
 - (5) To undertake annually the preparation of the capital and operating budgets as well as the capital expenditure programme with specific reference to the formulation of priorities, and to report thereon to the executive committee.
 - (6) To undertake forward planning in order to assist the Metro Council in fulfilling its functions.
 - (7) To act as the policy adviser to the Metro Council and its executive committee.
 - (8) To report from time to time to the executive committee on the carrying out of his functions.
 - (9) To assume such additional powers, duties and functions as the executive committee or the Metro Council on the recommendation of the executive committee, may decide.
62. The Metro Council shall from time to time decide on the remuneration, emoluments and allowances to be paid to its employees: Provided that the Town Clerk shall be remunerated at a rate higher than that of the next highest paid employee of the Council.
63. The Town Clerk shall not be a head of department: Provided that he may control certain functions necessary to enable him to fulfil his powers, duties and functions. Without limiting the generality of the foregoing proviso the following functions shall be under the general direction and control of the Town Clerk:

(a)/.....

- (a) organisation and methods, work study or any variation or combination of these;
 - (b) forward planning, corporate planning and project co-ordination;
 - (c) public information systems;
 - (d) personnel management;
 - (e) budgeting but not the work of accountancy;
 - (f) civil defence and security;
 - (g) research, information, monitoring and review.
64. (1) All heads of departments shall be subordinate to the control of and be responsible to the Town Clerk for the management of their departments except where a specific legal duty is imposed on a head of department and then only in respect of that limited incidence.
- (2) No report from a head of department shall be submitted to the Metro Council or any committee thereof unless that report has been submitted to the Town Clerk and he has endorsed or in any other way indicated his views thereon.
65. (1) The Town Clerk or a head of a department may in the exercise of his powers or the performance of his duties and functions act through any employee under his control.
- (2) The Town Clerk and heads of departments shall delegate to such of the employees under their control such of the powers, duties or functions as may have been delegated to them by the executive committee to ensure the effective and efficient management and operation of any branch, section or division under their control, and may impose conditions in connection with such sub-delegation.
66. Whenever a vacancy occurs in the office of Town Clerk or a head of department such vacancy shall be advertised for applications by publication in the press.

67. (1) The Town Clerk, once appointed, shall not be required to serve a probationary period.
- (2) The Metro Council shall not reduce the remuneration, emoluments or allowances of the Town Clerk or dismiss him or reduce him in rank unless -
- (a) it shall first deliver to him its reasons in writing for the proposed course of action; and
- (b) it shall afford him a hearing at which he may be represented by any person of his choice; and if the Town Clerk shall thereafter so request,
- (c) it shall by agreement with the Town Clerk appoint a single arbitrator to hear and decide on the matter.
- (3) The arbitrator referred to in sub-section (2)(c) shall award costs according to the result.
68. The Metro Council shall for its own service and for the service of any municipal council as may be provided for herein, establish a service commission and shall decide upon the constitution, membership, remuneration of members, powers, duties and functions of such commission.
69. The service commission established in terms of section 68 shall undertake the recruitment and selection of employees for any municipal council in such manner and up to such levels as may be mutually agreed between the Metro Council and a municipal council and may also by mutual agreement undertake other personnel functions.
70. (1) All employees of the former Divisional Council of the Cape and of the municipal councils shall be eligible for service with the Metro Council.
- (2) In order to determine the staffing levels of the Metro Council and the municipal councils the Metro Council shall establish an organisation and methods team which, in consultation with the various/.....

various heads of departments concerned, shall report to the Metro Council and the municipal councils on staffing levels.

- (3) Any employee of the former Divisional Council of the Cape or any employee of any municipal council whose continued local government service is affected by the transfer of any power, duty or function to the Metro Council, or by the loss of any power, duty or function by any municipal council, and who is not offered employment by the Metro Council or any municipal council, or who is not retained in the service of the municipal council employing him, shall be eligible for compensation from the Compensation Fund established in terms of section 71.

- 71. (1) A fund is hereby established which shall be known as the Compensation Fund for the purpose of compensating all employees of the former Divisional Council of the Cape who are not offered employment by the Metro Council or any municipal council, or any employee of any municipal council whose post is declared to be redundant as a result of the creation of the Metro Council and the transfer of powers, duties and functions to it.
- (2) The income of the Compensation Fund shall consist of the proceeds of an extraordinary rate levy, such levy to be made once only, together with such additional sums to be provided by the Province of the Cape of Good Hope from time to time in a total amount sufficient to meet the obligations of the Fund.
- (3) Any employee referred to in sub-section (1) and who has not had ten (10) years' or more pensionable service shall be paid such compensation as the administrators of the Fund may determine based on that person's prospects of obtaining further paid employment.
- (4) Any employee referred to in sub-section (1) who has had ten (10) years' or more service and who -

(a)/.....

- (a) is a member of the Cape Joint Pension Fund or the Cape Town Municipal Pension Fund shall, in addition to the pension he shall receive from either of these Pension Funds, have an additional amount added to his pension, which additional amount shall be determined in relation to the person's prospects of obtaining further paid employment; and
 - (b) is not a member of any pension fund but who is eligible for any form of gratuity shall be paid an amount equal to the amount payable to any person provided for in (a) above, and calculated on the same basis.
- (5) The administrators of the Fund shall consist of -
 - (a) one representative from each of the municipal councils;
 - (b) two representatives from the Metro Council;
 - (c) two representatives from the South African Association of Municipal Employees (Non-Political); and
 - (d) four representatives from the registered trade unions in the metropolitan area which represent coloured or indian municipal or divisional council workers.
- (6) The administrators of the Fund shall draw up rules regulating their procedure and the manner in which compensation is to be calculated and paid out of the Fund, and these rules shall be published for general information in the Official Gazette and be binding on the Fund and its administrators.
- 72. Those provisions of Chapter VII of the Principal Ordinance which are not in conflict with the provisions of this ordinance shall mutatis mutandis apply to the Metro Council and the municipal councils.

ACTIONS/.....

ACTIONS BY RATEPAYERS

73. Any ratepayer in the metropolitan area may apply to a court of competent jurisdiction for an order -
- (a) interdicting the Metro Council from acting outside its powers or acting in any way which is considered to be against the public interest; or
 - (b) compelling the Metro Council to render some service or to fulfill some power, duty or function which the Metro Council is required to do or perform and which it has not done or performed; or
 - (c) compelling the Metro Council to discuss in open council a matter which it is discussing in committee.
74. The remedies provided for in section 73 shall be in addition to and not in substitution for any legal remedy which a ratepayer may have against the Metro Council.

APPLICATION OF THE PRINCIPAL ORDINANCE

75. In addition to the provisions of the Principal Ordinance already applied to the metropolitan area in terms of the preceding provisions of this ordinance, the provisions of Chapters IX, X, XI, XII, XIII, XIV and XV of the Principal Ordinance shall mutatis mutandis apply to the metropolitan area save and except that:-
- (a) in relation to the Metro Council any reference to the consent or approval of or direction by the Administrator shall be deemed to be a reference to the Metro Council;
 - (b) in relation to any municipal council any reference to the consent or approval of or direction by the Administrator shall be deemed to be a reference to the Metro Council;

(c)/.....

- (c) the application of the Principal Ordinance shall not in any way limit or restrict the Metro Council from undertaking any service not provided for in such Principal Ordinance and a general power is hereby conferred on the Metro Council to use and adapt the powers conferred on municipalities for the specific services referred to in Chapters X - XV of the Principal Ordinance, to any new service considered necessary;
 - (d) any future amendments which the Council of the Province of the Cape of Good Hope may effect to the Principal Ordinance shall not apply to the metropolitan area unless the Metro Council by a vote of a majority of its members taken at a meeting specially convened for the purpose, indicates its acceptance thereof or requests such amendment.
76. Where the Metro Council desires any amendment to the Principal Ordinance or this ordinance for application to the metropolitan area it shall address such request to the Administrator and the Administrator -
- (a) if he agrees with the aforesaid request shall introduce the necessary amending legislation; or
 - (b) if he does not agree with the aforesaid request shall lay such request with his reasons for not agreeing therewith before the Provincial Council at the first available sitting of the Provincial Council and the Provincial Council shall by resolution take a final decision thereon.

REVIEW

77. Not later than five (5) or earlier than three (3) years reckoned from 1st January, 1984, the Administrator shall appoint a commission of enquiry in terms of the law relating to commissions of enquiry for the purpose of -

(a)/.....

- (a) reviewing and assessing the degree of success or failure of the Metro Council in meeting its functions; and
- (b) recommending any changes to the Metro Council system considered necessary in the light of the evidence obtained, or any extensions to the metropolitan area considered necessary, -

and should the Metro Council continue in its original or an amended form, commissions of enquiry as provided for above shall be held not later than ten (10) or earlier than five (5) years after the first commission of enquiry for the purposes set out in (a) and (b) above.

OFFENCES AND PENALTIES

78. (1) Any councillor or employee who contravenes or fails to comply with the provisions of section 48 and any councillor who contravenes or fails to comply with the provisions of sections 49, 51 or 52 shall be guilty of an offence and liable upon conviction to a fine not exceeding ten thousand Rands (R10 000) or imprisonment for a period not exceeding five(5) years or to both such fine and such imprisonment.
- (2) Any person convicted of an offence under this ordinance for which no express penalty is provided shall be liable to a fine not exceeding one thousand Rands (R1 000) or to imprisonment not exceeding two (2) years or to both such fine and such imprisonment.
79. Any councillor or employee convicted in terms of section 78(1) shall -
- (a) in the case of a councillor no longer be qualified to be a municipal or Metro councillor and shall be deemed to have vacated his seat on the date of conviction; and

(b)/.....

- (b) in the case of an employee of the Metro Council such employee shall be deemed to have been summarily dismissed on the date of conviction -

subject to these sanctions not coming into operation where an appeal is noted and taken to finality within a reasonable time, and should the court to which the appeal is directed find in favour of the appellant. Should the court to which the appeal has been directed hand down a finding confirming the conviction the sanctions provided for herein shall be deemed to have come into operation on the date that the court to which the appeal was directed handsdown its finding.

80. The provisions of sections 78 and 79 shall be in addition to and not in substitution for the offences and penalties provided for in section 213 of the Principal Ordinance save and except that the maximum penalties provided for in sub-section (3) thereof shall be increased to one thousand Rands (R1 000) and two (2) years' imprisonment, respectively, and fifty Rands (R50) or fifty (50) days imprisonment in the case of continuing offences.

SHORT TITLE

81. This ordinance shall be called the Metropolitan Municipality of Greater Cape Town Ordinance, 1983, and shall come into operation on the 31st day of December, 1983.

BILL

NATIONAL COUNCIL FOR LOCAL GOVERNMENT
BILL

To provide for the establishment of a National Council for Local Government for the purpose of assisting local authorities in the discharge of their functions; to undertake research into the services rendered by and the problems of local authorities and to make the results of that research available to local authorities; to provide specialised training for local government employees; to provide practical assistance to local authorities; and to provide for matters incidental thereto.

1. Definitions - In this Act, unless the context otherwise indicates - "Administrator" means Administrator-in-Executive Committee of a Province;
"Council" means the National Council for Local Government established in terms of section two of this Act;
"local authority" means any institution or body contemplated in section 84(1)(f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); and
"local government" shall have a corresponding meaning;
"Minister" means the Minister of Internal Affairs;
"president" means the person appointed in terms of section six as president of the Council.

Establishment and Composition of Council

2. There is hereby established a Council to be known as the National Council for Local Government, which shall consist of the following members:-

(a)/.....

- (a) one representative nominated by each of the four provincial municipal associations;
- (b) one representative nominated by the Association of Divisional Councils of the Cape Province;
- (c) two representatives nominated by the United Municipal Executive of South Africa;
- (d) not more than four persons nominated by the Minister of Internal Affairs because of their special knowledge of local government, and at least two of whom shall be active in local government either as a councillor or an employee;
- (e) one representative each nominated by the Administrators of the four Provinces;
- (f) not more than four persons representative of the central Government and appointed by the Minister.

Functions of Council

3. The Council shall have charge of all matters of a local government nature assigned to it in terms of this Act or as the Minister may by notice in the Gazette add thereto either mero motu or at the request of the Council, and shall advise the Minister and local authorities on matters relating to the nature, development, operation, training, services and employment of, to or for local authorities.

Objects of Council, and its powers in connection therewith

4. (1) Without prejudice to the generality of the functions of the Council under section three, the objects of the Council are -
 - (a) to promote effective and responsive local government in the Republic;
 - (b) to seek new knowledge of and concerning local government through research and investigations in such manner as it may deem desirable, mainly with the

object/...

object of improving local government processes, methods or services, and of developing processes or methods which may promote the effectiveness, efficiency or responsiveness of local government;

- (c) to undertake or aid research in connection with such matters as the Minister or any local authority may refer to it for investigation, on condition that in the case of a matter referred to it by a local authority the Council shall have the discretion to refuse to undertake or aid an investigation;
 - (d) to foster the training of local government personnel, to establish and award research bursaries, and to establish, provide, maintain and operate training institutions;
 - (e) to encourage and promote research generally, and to contribute thereto financially;
 - (f) to foster, recognise and aid the establishment of associations of persons engaged in local government, for the purpose of carrying out research or training, and to co-operate with and make grants to such associations;
 - (g) to establish and control facilities for the collection and dissemination of information in connection with local government matters;
 - (h) to act as the liaison between the Republic and other countries in matters relating to local government research.
- (2) If authorized thereto by the Minister either generally or specially, the Council may for the achievement of its objects -
- (a) make grants to universities, technical colleges and other approved institutions in aid of local government research by their staff or students or for the establishment of facilities for such research;
 - (b) co-operate with State Departments, universities, technical colleges and other approved institutions or persons for the promotion of local government research;

- (c) co-operate with educational authorities and related societies in the Republic or organizations or bodies in the Republic representing employers and employees, respectively, for the promotion of -
 - (i) the teaching of local government in schools, technical colleges and universities;
 - (ii) the training of research workers in local government and of local government experts; and
 - (iii) the training of local government employees;
 - (d) grant or make available bursaries and educational loans to persons desiring to train as local government employees;
 - (e) co-operate with persons and associations undertaking local government research in other countries.
- (3) The Council may -
- (a) for achieving its objects -
 - (i) with the approval of the Minister purchase or otherwise acquire, or hold or alienate immovable property, and establish research, training or other facilities; and
 - (ii) purchase or otherwise acquire, or hold or alienate movable property as well as any immovable property or services; and
 - (b) in addition to the other things which the council is required or empowered to do under the other provisions of this Act or under any other law, do all such things as are conducive to the achievement of its objects or calculated directly or indirectly to enhance the value of or render profitable the property or rights of the Council.

5. Exercising of powers in territories outside the Republic.

- (1) The Council may, at the request or with the prior approval of the Minister, undertake local government research in any territory outside the Republic on behalf of any person (including any government or administration) in any such territory.
- (2) Subject to the provisions of subsection (3), the provisions of this Act shall, in so far as they can be applied, apply mutatis mutandis in connection with the exercising by the Council of its powers in terms of this section as if the territory in which it so exercises its powers is within the Republic.
- (3) Notwithstanding anything to the contrary in this Act contained, the terms and conditions on which the Council may undertake research in terms of subsection (1), shall be such as may be mutually agreed upon between the Council and the person (including any government or administration) on whose behalf the research is to be undertaken, and approved by the Minister.
- (4) The Minister may with the concurrence of the Minister of Finance indemnify the Council against any losses it may incur consequent on any act or omission of the government or administration of any territory outside the Republic.

6. Constitution of the Council and period of office and remuneration of certain members thereof.

- (1) Subject to the provisions of sub-section (2) the Council shall consist of a president and the other members provided for in section two.
- (2) A member of the Council, with the exception of the president, shall hold office for a period of three years: Provided that the State President may extend the period of office of a member for such period as he may deem fit, but not beyond a total period of four years.

(3)/.....

- (3) A member of the Council whose period of office has expired, shall be eligible for re-appointment or re-nomination.
- (4) Subject to the provisions of sections seven, nine and ten a member of the Council shall not receive any remuneration in respect of his services as such a member, but the Council shall out of its funds pay to any such member such allowances in respect of travelling and subsistence expenses incurred by him in connection with the business of the Council, as the Minister may after consultation with the Minister of Finance determine: Provided that except on the recommendation of the Commission for Administration such allowances paid to such a member who is in the full-time service of the State shall not exceed those which are payable to him in respect of his work in the service of the State.
- (5) The members shall designate one of the members of the Council to act as chairman of the Council when the president is absent or is unable to perform his duties.

7. President of the council

- (1) The president shall be appointed whether retrospectively or otherwise for a period not exceeding three years at a time, and shall preside at meetings of the Council, be the chief executive officer of the Council, exercise supervision over the other officers and employees of the Council, and manage and control the work authorized by the council.
- (2) The Council shall out of its funds pay to the president such remuneration as the State President may determine.
- (3) Whenever for any reason the president is absent or unable to perform his duties, or whenever there is a vacancy in the office of president, the Minister may, subject to such conditions and to the payment of such remuneration and allowances as he may after consultation with the Minister of Finance

determine/.....

determine, appoint some other person to act as president during such absence or inability, or until a president has been appointed in terms of section 6, and that other person shall, while so acting, have all the powers and perform all the functions of the president.

8. Meetings of the Council

- (1) The meetings of the Council shall be held at such times and places as the Council may fix.
- (2) The president may at any time call a special meeting of the Council which shall be held at such time and place as he may direct.
- (3) The quorum for a meeting of the council shall be half of the total number of members thereof plus one.
- (4) A decision of the Council shall be by a resolution of the majority of the members present at any meeting of the council, and, in the event of an equality of votes on any matter, the person presiding at the meeting in question shall have a casting vote in addition to his deliberative vote as a member of the Council.

9. Executive committee.

- (1) The Council shall have an executive committee consisting of the president and two other members of the Council selected annually by the council from amongst its members.
- (2) Under the supervision of the Council the executive committee may exercise all the powers, and shall perform all the duties, of the Council.
- (3) The Council shall out of its funds pay to the members of the executive committee, with the exception of the president and any members who are in the full-time service of the State,

such/.....

such remuneration in respect of their services as the Minister may after consultation with the Minister of Finance determine.

10. Subsidiary committees.

- (1) The Council may establish subsidiary committees to assist it in the exercise of its powers and the performance of its duties and functions, and may appoint such persons, including officers of the Council, as it may deem fit to be the members of any such committee.
- (2) The Council may in its discretion assign any of its powers to a committee so established, but shall not be divested of any power assigned to such a committee, and may amend or withdraw any decision of such a committee.
- (3) The Council shall pay out of its funds to the members of a subsidiary committee, with the exception of the president and members who are in the full-time service of the State or officers of the Council, such remuneration and allowances in respect of their services as the Minister may after consultation with the Minister of Finance determine.

11. Officers and employees of Council.

- (1) (a) The Council may appoint such officers and employees as it may deem necessary to assist it to achieve its objects.
- (b) The Council shall out of its funds pay to the officers and employees of the Council such remuneration as it may from time to time determine.
- (c) The Council may from time to time pay out of its funds to the president and officers and employees of the Council such allowances, bonuses, subsidies and other similar benefits as would have been payable to them had they been officers and employees in the public service:

Provided/.....

Provided that the Minister may on the recommendation of the Council and in consultation with the Minister of Finance in particular cases approve the payment of -

- (i) such allowances, bonuses, subsidies or other similar benefits according to rates differing from those applicable to officers and employees in the public service;
 - (ii) allowances, bonuses, subsidies or other similar benefits other than those payable to officers and employees in the public service.
- (e) An appointment made or deemed to have been made under paragraph (a) shall, subject to the provisions of paragraphs (b) and (c), if subject to such conditions of service which will result in direct expenditure from the funds of the Council, shall be approved by the Minister in consultation with the Minister of Finance.
- (2) The president and the other members of the staff of the Council who are in the full-time service of the Council and occupy posts approved by the Minister, shall, subject to the provisions of the Associated Institutions Pension Fund Act, 1963 (Act No. 41 of 1963), and the regulations made thereunder, be members of and contribute to the provident fund established under section 12 of the Higher Education Additional Provision Act, 1917 (Act No. 20 of 1917), in the same manner and subject to the same conditions as if they were members of the teaching or administrative staff of a university as defined by section 1 of the Universities Act, 1955 (Act No. 61 of 1955), and the Council shall for the purposes of the said fund be deemed to be a university as so defined.
- (3) The Council shall be deemed to be a "council" as defined by the regulations governing the said provident fund and shall, anything to the contrary notwithstanding, pay to the said fund the contributions that the State would otherwise have been required

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to pay to it in respect of the president and the other officers and employees of the Council who are members of the said fund.

- (4) The Council may second any of its officers or employees to a local authority for any purpose connected with the Council's functions and objects, but if any officer or employee is so seconded, the terms and conditions subject to which he is employed by the Council shall not be affected thereby.
- (5) The Council may advance from its funds such amount on such conditions as it may deem fit, to the president or any other member of its staff in order to enable them to become members of the pension fund established under the Associated Institutions Pension Fund Act, 1963, or of the provident fund established under the Associated Institutions Pension Fund Act, 1963, or of the provident fund mentioned in section 3(1)(b) of that Act.

12. Special investigations at the request of any local authority.

The Council may, at the request of any local authority, and at such place and subject to such conditions and the payment of such charges as may be agreed upon, carry out or cause to be carried out through its officers or employees or through persons receiving research bursaries from the Council or through persons to whom special grants have been made by the Council, special investigations with the object of furthering any function or object of the Council.

13. Auditing and annual report.

- (1) The accounts and balance sheet of the Council shall be audited by a registered public accountant annually appointed by the Council.
- (2) (a) The Council shall furnish to the Minister such information as he may call for from time to time in connection with the activities and financial position of the Council, and shall in addition submit to the Minister, the four Administrators of the four Provinces, the United Municipal Executive, the

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four provincial municipal associations and the Association of Divisional Councils of the Cape Province, an annual report including a balance sheet and a statement of income and expenditure certified by the auditor, an estimate of expenditure in respect of the following financial year, and such other particulars as the Minister may require.

- (b) The Minister shall lay the said report on the table of the House of Assembly within fourteen days after the receipt thereof, if Parliament is in ordinary session, or, if Parliament is not in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

14. Financing of Council.

- (1) The funds of the Council shall consist of -
 - (a) moneys appropriated by Parliament to enable the council to perform its functions;
 - (b) revenue obtained by virtue of the provisions of sub-sections (4) and (5);
 - (c) amounts to be contributed by the four provincial municipal associations and the Association of Divisional Councils of the Cape Province;
 - (d) donations or contributions which the Council may receive from any person or which a Provincial Council may appropriate in aid of the Council.
- (2) (a) Subject to the provisions of sub-section (5), the Council shall utilize its funds for defraying expenses in connection with the performance of its functions.
- (b) The Council shall utilize any moneys contemplated in paragraph (a) of sub-section (1) in accordance with the statement of its estimated income and expenditure referred to in sub-section (3) as approved by the Minister:

Provided/.....

Provided that, subject to the provisions of paragraph (a), the Council may utilize any amount or portion of any amount required to be so utilized for a particular purpose in connection with a specified matter, for any other purpose in connection with that matter: Provided further that the Council may utilize any balance of such moneys remaining at the end of the Council's financial year in question, for any expenses in connection with the performance of its functions.

- (c) The Council shall utilize any donations or contributions contemplated in paragraph (d) of sub-section (1) in accordance with the conditions (if any) imposed by the donor or contributor in question.
- (3) The Council shall in each financial year at a time determined by the Minister, submit a statement of its estimated income and expenditure during the following financial year to the Minister for his approval after consultation with the Minister of Finance.
- (4) Subject to the provisions of any regulation made under section seventeen, the Council may, in respect of any services rendered by it under this Act, charge such fees or make such other financial arrangements as it may deem fit.
- (5) The Council may invest any unexpended portion of its moneys with the Public Debt Commissioners or in such other manner as may be determined by the Minister in consultation with the Minister of Finance.
- (6) The Council may establish such reserve funds as it may deem necessary or expedient and pay therein such amounts as the Minister may approve.

15. Accounting officer.

The president shall be the accounting officer charged with the responsibility of accounting for all moneys received, and for all

payments/.....

payments made, by the Council: Provided that the president may for the purposes of section 16 designate an officer of the Council as accounting officer in respect of any facility of the Council.

16. Recovery of losses and damages.

(1) If a person who is or was in the employ of the Council caused the Council any loss or damage because he -

- (a) failed to collect moneys due to the Council for the collection of which he is or was responsible;
- (b) is or was responsible for an irregular payment of moneys for the Council or for a payment of such moneys not supported by a proper voucher;
- (c) is or was responsible for fruitless expenditure of moneys of the Council due to an omission to carry out his duties;
- (d) is or was responsible for a deficiency in, or for the destruction of, or any damage to, moneys of the Council, stamps, face value documents and forms having a potential value, securities, equipment, stores or any other property of the Council;
- (e) due to an omission to carry out his duties, is or was responsible for a claim against the Council,

the accounting officer concerned shall determine the amount of such loss or damage, and may order, by notice in writing, that person to pay to him, within thirty days from the date of such notice, the whole or any part of the amount so determined.

- (2) If a person who is in the employ of the Council and who has in terms of sub-section (1) been ordered to pay an amount, fails to pay the amount within the period stipulated in the notice in question, the amount shall subject to the provisions of sub-sections (4), (5) and (6), be deducted from his monthly salary: Provided that such deduction shall not in any month exceed one-fourth of his monthly salary.

(3)/.....

- (3) If a person who was in the employ of the Council and who has, in terms of sub-section (1), been ordered to pay an amount, fails to pay the amount within the period stipulated in the notice in question, the accounting officer concerned shall, subject to the provisions of sub-sections (4), (5) and (6), recover the amount from the person concerned by legal process.
- (4) If a person who has been ordered to pay an amount in terms of sub-section (1) makes, within the period stipulated in the notice in question, an offer to pay the amount in instalments, the accounting officer concerned may allow payment in such instalments as he may consider reasonable.
- (5) A person who has in terms of sub-section (1) been ordered to pay an amount may, within a period of thirty days from the date of such order, appeal in writing against such order to the Council stating the grounds for his appeal, and the Council may, after such investigation as it may deem necessary, dismiss the appeal, or order that the appellant be exempted either wholly or partly, according as the Council may consider fair and reasonable, from the payment of such amount.
- (6) A person who has in terms of sub-section (1) been ordered to pay an amount may, instead of appealing to the council under sub-section (5), apply within a period of thirty days from the date of such order, or within such further period as the court may allow, to a competent court for an order setting aside such first-mentioned order or reducing such amount, and the court may upon such an application, if it is not convinced by the accounting officer concerned on the merits of the case that the order was rightly made or that that amount is correct, make an order setting aside such first-mentioned order or reducing that amount, as the case may be.

17. Regulations

The State President may make regulations as to -

- (a) the circumstances under which a member of the Council shall vacate his office;
- (b) the filling of casual vacancies on the Council and the appointment of persons to act for absent members;
- (c) the matters in respect of which fees shall be payable to the Council, the amount of such fees and the persons who shall be liable for the payment thereof;
- (d) the circumstances in which any fees so paid shall be refunded;
- (e) the payment of bursaries and grants;
- (f) the procedure at meetings of the Council and of the executive committee and of subsidiary committees thereof,

and generally, as to any matter in respect of which he considers it necessary or expedient to make regulations to achieve the objects of this Act.

18. Short title and commencement -

This Act shall be called the National Council for Local Government Act, 1983, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette.

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